

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
JANUARY 10, 2012**

The Vanderburgh County Drainage Board met in session this 10<sup>th</sup> day of January, 2012 at 5:50 p.m. in room 301 of the Civic Center Complex.

**Call to Order**

Commissioner Melcher: Are you ready, Bill? We'll go ahead and open up the Vanderburgh County Drainage Board. It's January 10, 2012, we're in room 301, it's about ten minutes to six.

**Reorganize Board/ Elect Officers for 2012**

Commissioner Melcher: The first thing it says, reorganize the Board, elect officers. We kind of already appointed that, but we'll do it. So, I'll make the motion for Joe to be the Chairman.

Commissioner Abell: I'll second it.

Commissioner Melcher: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

Commissioner Melcher: Then, I guess, we need to—

Bill Jeffers: Pass him the golden gavel.

Commissioner Melcher: Well, this, I thought if you wanted, Joe, I could go ahead and run it for this meeting.

Commissioner Abell: Then you could see how it goes.

President Kiefer: Yeah, I think that would be a good idea.

Commissioner Melcher: Well, then, I think we need a motion for, do we have a Vice? Do we have somebody in second place? That's what I thought. So, we need a motion now for—

President Kiefer: I make a motion that Commissioner Melcher is Vice.

Commissioner Melcher: I'll second it.

President Kiefer: Okay. All in favor.

All Commissioners: Aye.

**(Motion approved 3-0)**

Commissioner Melcher: Alright.

President Kiefer: I would like to make a motion that Commissioner Melcher run the meeting tonight.

Commissioner Abell: Second.

Commissioner Melcher: I'll second that. Third, all in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

<b>Set Regular Meeting Dates for 2012</b>
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Commissioner Melcher: Alright, so we're setting the dates, set regular meeting dates for 2012.

Commissioner Abell: Did you get a copy of our meeting dates?

Bill Jeffers: No, Ma'am, but statute requires one per month, minimum, and it's up to you whether you want more, or which days, or whether they continue to follow the Commissioners—

Commissioner Abell: It's in there.

Bill Jeffers: – meetings of the same date.

Commissioner Melcher: What do you think, Bill?

Commissioner Abell: Yeah.

Commissioner Melcher: I would rather have shorter meetings than long meetings. So, I mean, but sometimes these turn around to be long ones, so it doesn't matter.

Bill Jeffers: Right, under the current economic climate, we really have not had, like tonight, I have no drainage plans for you to consider. So, and, we've also, what would you say, Madelyn, about 25 percent of the meetings we've cancelled for lack of important business in 2011? One a month might be sufficient, and if you have a particularly difficult meeting or lengthy meeting, you can always recess and continue it two weeks later after your Commissioners meeting once again.

President Kiefer: I think that's a good suggestion.

Joe Harrison, Jr.: Although, you all did pass an ordinance a few minutes ago, which indicated that the Drainage Board meeting would follow each Commissioner meeting, and if you don't have something for that particular Tuesday evening, I would propose that you do like you're doing now and just say you don't have anything and we won't have one, we'll just cancel it that evening. But, it's set now to have two a month, and if you don't need—

Bill Jeffers: That's fine.

Joe Harrison, Jr.: – I mean, if you don't need any of them in a certain month, that's fine.

Commissioner Melcher: Well, can we do this then, can Bill go ahead and get hold of Marissa or Kristin and tell them that he doesn't have anything?

Joe Harrison, Jr.: Yeah.

Commissioner Melcher: So, you won't even have to come, Bill.

Bill Jeffers: That's generally what I do. I notify one of the two ladies in your office in the morning that we don't have anything—

Joe Harrison, Jr.: Sure.

Bill Jeffers: – and that gives her ample time to make the public notification that it's cancelled for that day.

Commissioner Melcher: Okay, then that's what we'll continue to do then.

Bill Jeffers: Okay, that works.

Joe Harrison, Jr.: Well, that gives you some flexibility in case something comes up at the last minute that you actually—

Commissioner Abell: Oh, true.

Joe Harrison, Jr.: – show up.

Commissioner Melcher: So, that's something we'll just make a motion on now?

Joe Harrison, Jr.: No, that was approved—

Commissioner Abell: We approved it.

Commissioner Melcher: Okay.

Joe Harrison, Jr.: If he doesn't need a meeting on a particular Tuesday night, he'll tell them ahead of time.

Commissioner Melcher: Right.

<b>Approval of the December 20, 2011 Drainage Board Meeting Minutes</b>
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Commissioner Melcher: Next we need a motion to approve the minutes, and since Joe wasn't here, I'll make the motion to approve it.

Commissioner Abell: Second.

Commissioner Melcher: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

**Surveyor Updates**

Commissioner Melcher: Surveyor updates. Now you're on.

Bill Jeffers: Oh, boy. I just got a notice today from one of our contractors we now have beavers in Sonntag Stevens Ditch, which is inside the city, runs parallel and north of Lynch Road in the industrial area. So, now they have moved from Pigeon Creek, up Little Pigeon and now into our urban drains in the city. We've already had them out, you know, Eagle Slough and way out in the county in the agricultural drains, but apparently now they've become urban critters. Another interesting thing, we're now finding river otters in our regulated drains. This is something, I just wouldn't have expected, I guess, they're big. Some of them stand 18 inches or more tall and weigh 40 pounds.

Commissioner Abell: Do they bite?

Bill Jeffers: Well, if you pick them up they probably would object.

Commissioner Abell: Well, how do we get rid of those?

Bill Jeffers: You can't. They're a protected species. Right now DNR says they're, they're not harmful, they don't build dams like beavers do.

Commissioner Abell: They're harmful if they bite you.

Bill Jeffers: Well, yeah. I would say don't go swimming in the legal drains. I just thought it was interesting, because those are, that's something that normally doesn't live where there's nothing that they can eat, like muscles and fish, and here they're moving back in. It's something that you haven't seen for, oh, I would say a hundred years, which means none of us have ever seen them.

Commissioner Abell: Isn't that why they named the ball team the Otters?

Bill Jeffers: The Otters, yeah.

Commissioner Abell: We used to have them here.

Bill Jeffers: I'm not sure.

Commissioner Abell: So, in other words, you've just reported a problem that you can't do anything about?

Bill Jeffers: I kind of want to, at some point in time, the reason I brought the beavers up, at some point in time I would like to discuss with our attorney the appropriateness of hiring a nuisance wildlife trapper to remove some of the beaver that are causing chronic problems in our regulated drains. The only wildlife nuisance, nuisance wildlife trapper who I know and trust is employed by the county, Mike Wathen. So, I don't know the appropriateness of us hiring a county employee as a contractor. The city hires Mike Wathen to remove pigeons from the downtown area, and he does a wonderful job of that. Board of Public Works does that. He had his contract renewed for this year with them. So, and you all know Mike—

Commissioner Abell: Oh, yeah.

Bill Jeffers: –and his ability to navigate waterways.

Commissioner Melcher: Marsha knows more about that.

Bill Jeffers: Marsha knows mostly about that, yes.

Commissioner Abell: I've driven in a boat with Mike.

Bill Jeffers: Right. So, anyhow, at some point in time I would like your permission to discuss the appropriateness of that with your County Attorney. Other than that, I don't have updates. I have no claims, and I have no other business at this time, which brings you to public comment.

Commissioner Abell: I have a question, are all of our neighborhood squabbles being quiet?

Bill Jeffers: Well, no, Ma'am. I guess that would come under my updates. We do have a situation with the Huang and Huston situation.

Commissioner Melcher: No, we don't.

Commissioner Abell: Okay.

Bill Jeffers: Where Ms. Huston was off work for medical reasons for a period of about four months. She was not earning wages, and she just recently returned to work, and now has notified me that it would be an economic hardship for her to move forward with the contract to make the necessary improvements that we had approved to address the drainage problem between her property and the Huang's property. So, I'm at a, and Mr. Huang did employ Ed Johnson, Jr. to produce the legal documents that we asked him to. So, those are prepared. So, now we're at a standstill, of course, it comes at a time when we can't do any construction anyway. Although, in this weather, it's very surprising, we probably could have got it done. We could have poured concrete in this weather. So, I'm kind of at a standstill there, because our governing statute under which the petition was filed has a clause in it that indicates that the order of the Board for the remedy can only, it's kind of worded as if it can only be implemented if it doesn't damage the respondent. Whether an economic hardship might be considered a damage is a legal question. So, I just wanted to notify you of that. There haven't been any phone calls made to me since the first of the year, or since I discovered this other than Ms. Huston's phone call which notified me of her economic hardship. So, I was going to bring it up at a later date.

Commissioner Melcher: That's fine.

Bill Jeffers: That's the only one that's on the middle burner. The one out there that Commissioner Abell and I visited at Pine Lake is back on the back burner, because the lake has settled out. You know, reached a pool elevation.

Commissioner Melcher: I thought you was going to fly there.

Bill Jeffers: I'll be flying tomorrow afternoon. I'll be flying Thursday morning, and I won't be back until the following Thursday.

Commissioner Abell: Oh, where are you going?

Bill Jeffers: I'm going to go visit my 93 year old father in Washington, D.C.

Commissioner Abell: Oh.

**Ditch Maintenance Claims**

Commissioner Melcher: Do you have any claims this evening?

Bill Jeffers: No, sir.

**Other Business**

Commissioner Melcher: Other business?

Bill Jeffers: No, sir.

**Public Comment**

Commissioner Melcher: But, we do have a gentleman that wants to speak under new business.

Bill Jeffers: Thank you, and, Joe, welcome, I don't think—

Joe Harrison, Jr.: Look forward to working with you.

Bill Jeffers: I don't think it will take, both Joe's, yeah, one doesn't need training.

President Kiefer: We've got a lot of Joe's here.

Bill Jeffers: Yeah.

Commissioner Melcher: We're going to separate them Joe's next time.

Bill Jeffers: Oh, there's three Joe's. Joe Kiefer, you won't have to wear training wheels very long at this job.

President Kiefer: Okay, thank you.

Bill Jeffers: It's an easy one.

Commissioner Abell: Except, I think he has to go out with Wathen.

Bill Jeffers: I think he should be made to.

Commissioner Abell: I think that's part of it.

President Kiefer: I see where this is heading.

Mike Ruder: I would just like to get a sign made that quick, with my name on it. Good evening, I think I would like to start the day and the year off with a good note. My name is Mike Ruder, R-u-d-e-r. I represent the Evansville-Vanderburgh Public Library, I'm the Facility Manager for the Evansville-Vanderburgh Public Library of

Vanderburgh County. I got a call on or around, about December 20<sup>th</sup> or 21<sup>st</sup>, we keep a large amount of records, old records that we're archiving, mostly newspaper in the Old Courthouse, and I was called to the Old Courthouse because we had a fairly substantial leak coming through the ceiling, and I really didn't know who to call or who was responsible for the building. I did get in contact, in short order, I believe it was one of your staff, Melissa,<sup>1</sup> which she directed me that you, the county, is responsible for that building. She got in contact with a Mr. Otis Campbell who is the groundskeeper there, and we kind of met and he was very diligent on taking care of the water leak and putting plastic over all of the file cabinets, or just some of the file cabinets. So, we didn't sustain any damage to our records. I just want to say thank you very much for your staff, and if you could thank them, the library really appreciates that.

Commissioner Abell: I just want to thank you for coming, because we hear all of the complaints, we rarely hear compliments. So, that's a nice thing to hear.

Mike Ruder: Well, thank you, and that's kind of like where I'm at, I have a lot of opportunities to try to succeed for people. It's never problems, they are only opportunities for me.

Commissioner Melcher: We do want to thank you for coming, because it kind of shows how we're all working together.

Mike Ruder: Right.

Commissioner Melcher: You know, you're renting space, obviously, from us—

Mike Ruder: Well, you know, a lot of times I'm asked to do things that I just, I can't do it, it's not in my building, and at that time I didn't know whether it was coming from the outside because it was raining that day. I couldn't make that determination, and I really didn't know who to call, so I had to call back to the office and find out. I thought maybe Dave was over the building, but he wasn't. I did get a hold of Marissa and she contacted the appropriate people. Again, thank you, and thank your staff for all what they've done. It was a great help. It could have potentially been really disastrous. It was a hot water heater, they didn't even know it was installed there. It was a vacant tenant, long ago gone, and I believe they went ahead and took care of it, but the hot water heater wasn't even supposed to be in there.

Commissioner Abell: I'm assuming these records are not on any other form, so this would have been the end of them.

Mike Ruder: That's why they're there. They take them, actually, one of the girls went over to retrieve some of the material to work on, and that's how it was discovered, and they immediately called me and I took some of my staff over and we kind of put some plastic over it just until I could make some phone calls to see how it could be handled. It was done within, you know, a short time. We got hold of the right people.

Commissioner Melcher: Well, we appreciate you coming.

Mike Ruder: No, thank you very much. I appreciate all what you guys do.

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<sup>1</sup>Should be Marissa.

Commissioner Melcher: Okay.

Commissioner Abell: Thank you.

Mike Ruder: Thank you very much.

Commissioner Melcher: Alrighty, thank you. Richard, do you got any public comment that you want to make?

Richard Gootee: No.

Commissioner Melcher: Alrighty.

Commissioner Abell: Richard, you came in late, so (Inaudible. Microphone not on.)

Richard Gootee: I've been here since the beginning.

Commissioner Abell: Oh, okay. Well, I haven't seen you.

Commissioner Melcher: He left, he came back.

Commissioner Abell: Yeah, he went out and (Inaudible. Microphone not on.)

Commissioner Melcher: That's right, he tried to catch somebody in the hallway. With that I'll entertain a motion to adjourn.

President Kiefer: So moved.

Commissioner Abell: Second.

Commissioner Melcher: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

Commissioner Melcher: Adjourned.

(The meeting was adjourned at 6:04 p.m.)

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

Madelyn Grayson

Others Unidentified

Stephen Melcher

Joe Gries

Mike Ruder

Members of Media

Marsha Abell

Joe Harrison, Jr.

Richard Gootee



**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
JANUARY 24, 2012**

The Vanderburgh County Drainage Board met in session this 24<sup>th</sup> day of January, 2012 at 6:40 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for January 24, 2012.

**Pledge of Allegiance**

President Kiefer: Following, Madam President's lead, I do think it's appropriate that we start these meetings with the Pledge of Allegiance. So, Joe, if you don't mind leading us.

Joe Gries: Sure.

President Kiefer: Thanks.

(The Pledge of Allegiance was given.)

**Approval of the January 10, 2012 Drainage Board Meeting Minutes**

President Kiefer: Okay, because there's a conflict here, I'm going to ask, oh, no, I'm sorry, first approval of the minutes from the previous meeting.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor?

All Commissioners: Aye.

President Kiefer: Opposed?

**(Motion approved 3-0)**

**Heckel Road Commercial Subdivision: Final Plan**

President Kiefer: Okay, because I have a conflict, I would like to ask Commissioner Melcher to address the drainage plans. I'm turning the gavel over to you.

Commissioner Melcher: You just keep it down there. This is the Heckel Road Commercial Subdivision, final plan.

Bill Jeffers: Okay, what we have is a 17 lot subdivision at the corner, the northwest corner of Heckel Road and new Green River Road, immediately south of Goebel Soccer Park. There's a central roadway already constructed that runs from Heckel Road due north into the soccer park. I believe there's a gated entrance to the soccer

park at the north end to protect the soccer park, but, I believe, it can be opened. The preliminary drainage plan was approved at your last meeting, and the request has come forward for the approval of the final drainage plan from Bernardin Lochmueller and Associates, prepared by James Farney, who is a land surveyor and professional engineer. Basically, his plan is to drain all of the interior drainage facilities to an off-site lake at the northwest adjacent, contiguous and northwest of the subdivision, as shown on your overhead view. As you can, that lake is actually a borrow pit that was used to acquire fill for the Green River Road project you completed last year. All of the soil that came out of there was applied into the road bed for Green River Road, to raise it above flood. So, it's a substantial borrow pit. As you can see it's almost as big as the subdivision itself. That brings forward an issue that there is much more storage capacity in that borrow pit for storm water than the requirement laid upon the 17 lots that will drain into it. The 17 lots of the subdivision currently are owned by Jim Johnson, he's the owner and developer. He's also the owner of the adjacent land to the west, and quite a bit of land to the north and west. We assume he will subsequently develop more land, and that there's adequate capacity in this detention lake for many more acres to flow into it. So, when I asked them to prepare an easement with a document that would detail who would be responsible for the long term maintenance of the lake, because it's off-site, and I envisioned that an association of lot owners would have an annual fee to maintain the lake, and that all I was asking for was ingress/egress access to the lake and the right of the association to maintain the lake in accordance with our code, I overlooked the potential that subsequent property owners that might be, become property owners of subsequent development by Mr. Johnson, Johnston, would also want to drain into that lake and would be responsible for maintaining the lake, their fair share, but the first owners might have an objection to the language or some such thing and would block access to the lake legally. So, I'm working with Maria Worthington, who represents Mr. Johnston, and she's been in contact with Mr. Johnson, Johnston, for the last couple of days, and is asking that we work out a detailed agreement that would guarantee that this lake would be used as a regional facility, which is much preferable, from my point of view, and I'm sure from the, from everyone's point of view because you wouldn't have to have smaller, individual facilities on each development that are a pain in the rear to maintain. You would have one big regional facility that there was a mechanism by which funds were gathered and it was maintained in a professional manner. So, my recommendation at this time is to approve the final plan, final drainage plan, for Heckel Road Commercial Subdivision, with the understanding that final drainage approval is contingent upon the lake maintenance and storm drainage easement document being recorded in conjunction with/or prior to the recording of the final plat. Now, that recommendation is based on the fact that before final plats are allowed to go to the Recorder's office and become recorded, Area Plan Commission asks several of us technical advisors, County Engineer, County Surveyor, etcetera, to endorse the recording of the plat, indicating that all of our requirements have been met with regard to roads, streets, drainage, etcetera, and that there's a letter of credit in place to guarantee completion, etcetera, all that type of thing. So, there will come a time when they will want to record the plat so that they can acquire building permits, and at that time I will verify that Ms. Worthington has prepared a recordable document outlining the future and long term perpetual maintenance of the lake. The only other contingency I would place upon it is that at that time the shoreline of the lake be prepared for, be covered by the letter of credit to conform with our drainage code requirements for a stable shoreline, etcetera.

Commissioner Abell: Bill?

Bill Jeffers: Yes, Ma'am?

Commissioner Abell: When she prepares that, will she be preparing that like right away, or could it be a long time down the road?

Bill Jeffers: It shouldn't be too long from now. She was out of the country for like, I guess, the Christmas or holiday season she was away from Evansville. Mr. Johnston was in the gulf and she just got back last week and is in catch up mode. She just indicated that she needed a short time to get around to developing a complete document that would cover all contingencies and protect her client from the negative effects of short sightedness.

Commissioner Abell: So, it will be within this year while you're still with us?

Bill Jeffers: Oh, I think it will be within 30 days.

Commissioner Abell: Oh, okay. I was just afraid that it was going to be after you were gone, and, you know, there might be some break and nobody would know what's going on.

Bill Jeffers: That would be horrible. No, it's going to be okay, Commissioner Abell.

Commissioner Melcher: We would have to call you back.

Bill Jeffers: For the right price, I'm here.

Commissioner Melcher: If you remember I brought that up already. I said that when you leave they ought to contract with you.

Bill Jeffers: Well, I'm cheap. I don't charge \$150 an hour, believe me.

Commissioner Abell: That could change.

Bill Jeffers: I think Ms. Worthington also wanted opportunity to talk with Mr. Harrison, Mr. Joe Harrison, because he should have the opportunity, at least a day or two to look at the document and find whether it protects the county's interest as well. I told her that would have to happen, and she wasn't able to prepare for tonight's meeting.

Commissioner Abell: I'll move for approval.

Commissioner Melcher: Do we need approval?

Bill Jeffers: Of the final drainage plan.

Commissioner Melcher: Then, I'll second.

Madelyn Grayson: Bill, were they also going to confirm the approval of the preliminary plan on this one?

Bill Jeffers: Oh, that's right.

Joe Harrison, Jr.: Let's do that in a separate—

Bill Jeffers: There was a question whether their motion was properly made for the preliminary plan, and I would ask that you confirm approval of the preliminary plan, because it has already gone to Area Plan Commission hearing.

Commissioner Abell: So, we need to do that first?

Bill Jeffers: It was unclear from the minutes whether it was—

Commissioner Melcher: Voted on or not.

Bill Jeffers: —executed completely.

Commissioner Abell: The motion was made and seconded though?

Commissioner Melcher: Yes.

Commissioner Abell: So, all we need to do this time is vote?

Joe Harrison, Jr.: Well, why don't you do this. Just confirm preliminary approval at the last meeting and then consider final approval right now. So, your motion would be—

Commissioner Melcher: What you just said.

Joe Harrison, Jr.: What I just said.

Commissioner Abell: Okay.

Bill Jeffers: Sounds good.

Commissioner Melcher: So, that's Marsha's—

Commissioner Abell: That's my motion.

Commissioner Melcher: And I'll second it. So, all in favor say aye.

Commissioner Abell: Aye.

Commissioner Melcher: Aye.

President Kiefer: Abstain.

Commissioner Melcher: Opposed?

**(Motion approved 2-1. Commissioner Kiefer abstained.)**

Commissioner Melcher: That's it on that one.

Joe Harrison, Jr.: So, what you did was you confirmed preliminary approval from the last meeting, and final approval this evening.

Commissioner Melcher: Okay.

Bill Jeffers: That's the way I understand it, and I appreciate your tolerance on that.

Commissioner Melcher: Now, that we're past this one, I'll pass the gavel, which never came down, back to Joe to run his Drainage Board.

**Approval of Ditch Maintenance Claims**

President Kiefer: The next one is claims.

Bill Jeffers: Yes, sir. I have a folder full of claims in front of Madelyn Grayson. They've been prepared in accordance with our standard procedure. They have been inspected. Those are on ditches, work on ditches, and the work's been inspected, the paperwork is in order, and the County Surveyor recommends approval for payment of the claims in front of you.

President Kiefer: Do, um—

Commissioner Melcher: Move for approval.

Commissioner Abell: Second.

President Kiefer: All in favor, or, do we need to roll call this? All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

Madelyn Grayson: Commissioners, in the past you've given me permission to stamp your name on these. Unless you want to physically sign every one.

Commissioner Abell: Oh, no.

Commissioner Kiefer: You can go ahead and stamp them.

Madelyn Grayson: Okay.

Commissioner Abell: Stamp away.

**Other Business**

President Kiefer: Okay, is there other business?

Bill Jeffers: Well, I would like to recognize Dewey Colter, a member of the Area Plan Commission who is in our audience. I don't know that he has anything to say, but his presence here is appreciated, and we should recognize the work that he does on the Board of Zoning Appeals and Area Plan Commission.

President Kiefer: Dewey, thank you very much.

Bill Jeffers: And, also recognize our new Mayor and former Drainage Board President, Commissioner President, Mr. Lloyd Winnecke is in the audience. I don't know if he has anything to say today.

President Kiefer: Mayor, I didn't see you, but thank you for being here. I know that you didn't have anything better to do tonight.

Bill Jeffers: I think he sent his Deputy Mayor, Steve Schaeffer, had to leave, I saw him leaving early, like 5:30 or so. Maybe the Mayor had to stay and finish up some work that wasn't finished.

President Kiefer: Well, thank you for being here.

Bill Jeffers: I always like to dig a little on Steve.

<b>Public Comment</b>
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President Kiefer: If there's no other business, I would seek public comment. Okay, if not, then I would like to have a motion to adjourn.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: We are adjourned.

(The meeting was adjourned at 6:52 p.m.)

**Those in Attendance:**

Joe Kiefer  
Bill Jeffers  
Madelyn Grayson

Stephen Melcher  
Joe Harrison, Jr.  
Others Unidentified

Marsha Abell  
Joe Gries  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
FEBRUARY 21, 2012**

The Vanderburgh County Drainage Board met in session this 21<sup>st</sup> day of February, 2012 at 5:45 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for February 21, 2012.

**Pledge of Allegiance**

President Kiefer: I would like to start with—

Commissioner Melcher: I'll move for approval—

President Kiefer: —okay, I was going to start with the Pledge of Allegiance.

Commissioner Melcher: The Pledge, I'm sorry.

(The Pledge of Allegiance was given.)

**Approval of the January 24, 2012 Drainage Board Meeting Minutes**

President Kiefer: Thank you. I'm sorry, Steve, you were going to—

Commissioner Melcher: No, I was going to say I'll move to accept the minutes of the previous meeting.

President Kiefer: I second that. All in favor say aye.

Commissioner Melcher: Aye.

President Kiefer: Aye. So done.

**(Motion approved 2-0)**

**Azteca Milling: Modified Final Drainage Plan**

President Kiefer: Drainage plans?

Bill Jeffers: Yes, sir, the Azteca Milling, which is located on Baseline Road just west of U.S. 41, is completing a new silo farm. Here's their existing silos, you can see the shadows of the silos in the aerial photograph, in that area they are going to add several more silos, and they're moving a corn testing lab that's over here on the west side of the plant all the way over to the east side and building some circular roads for loading in and loading out of the product. That requires some minor modifications of the detention area to allow for the roadway to come around the outside of the silo farm. The modifications require a modified final drainage plan which will continue to contain, control and release storm water in the same or superior manner to what is being contained and released at this time. The County



Surveyor recommends approval of the modified final drainage plan for Azteca Milling.

President Kiefer: Okay, do we need to approve these individually?

Commissioner Melcher: Yeah, I'll go ahead and make the motion to accept the Azteca Milling modification of the final drainage plan.

President Kiefer: And I second that. Any further discussion? Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes. So approved.

**(Motion approved 2-0)**

**Jacob's Village: PUD Phase II: Final Drainage Plan**

President Kiefer: Now we're on to Jacob's Village.

Bill Jeffers: Jacob's Village is a Planned Unit Development, this is Phase II. In order for the plat to be recorded we must approve the final drainage plan for Jacob's Village PUD, Phase II, which is in the lighter colored, or the darker amber looking yellow here. The lake is already in place, you can't see it on this older aerial photograph, because it was still dry at that time, but the lake receives all of the drainage. All of the storm water facilities are in place and operating at this time. It's a formality to approve the final drainage plan so that they can record the subdivision and move forward. I believe you may have approved the street plans earlier in this meeting, in your previous meeting. Okay, so the County Surveyor recommends approval of the final drainage plan.

Commissioner Melcher: I'll make a motion to approve the final drainage plan for Jacob's Village PUD, Phase II.

President Kiefer: I second that. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes. So approved.

**(Motion approved 2-0)**

**Lincoln Dane Estates: Preliminary Drainage Plan**

President Kiefer: Final, Lincoln Dane Estates.

Bill Jeffers: Okay, Lincoln Dane Estates, previously was, I believe it was a two lot, maybe it had two large parcels, but the developer who's here in the audience tonight, Mr. Randy Johnston, has moved forward with another plan to establish six smaller lots, although they are still very large lots by comparison to most residential lots. This is on Volkmann Road about a quarter mile east of U.S. 41 in northern Vanderburgh County. There will be a large lake, basically straddling this common lot line between the more narrow lots and the large lot six to acquire a large volume of fill. To bring everything above flood plain the lake will be oversized and it will contain well more than what it would have to satisfy the drainage ordinance. Approval of the preliminary drainage plan will allow it to move forward to Area Plan Commission Thursday. The County Surveyor does recommend approval of the preliminary drainage plan for Lincoln Dane Estates. The engineer for Mr. Johnston is also, has accompanied him here tonight.

President Kiefer: I don't have any questions. Do you have some discussion?

Commissioner Melcher: No, but it looks like this lake is going to be owned by everybody.

Bill Jeffers: That's correct.

Commissioner Melcher: You know all the trouble we've had with lakes. I'm just kind of looking at it so that everybody will be able to say they all have to share in the maintenance of it.

Bill Jeffers: Everybody will have to share in the maintenance of the lake.

Commissioner Melcher: That's the only thing I want to get out.

Bill Jeffers: Right, and the final plat will carry a notice to that effect, that everyone shares in that.

Commissioner Melcher: Because I think we need to do that with everyone that comes now.

Bill Jeffers: Right.

Commissioner Melcher: With that, I'll take your advice and I'll accept the preliminary drainage plan for Lincoln Dane Estates.

President Kiefer: I'll second that. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes. Okay, we got that approved.

**(Motion approved 2-0)**

**Notice to Bidders & 2012 Ditch Specifications:  
Annual Maintenance to Regulated Drains**

Bill Jeffers: Yes, I have a set of specifications for the annual maintenance to our regulated drains in Vanderburgh County. Standard specifications that we give you each year for the maintenance of all of our ditches, along with a notice to bidders, which I believe Madelyn has the original copy there for you to sign. This notice will appear in the newspaper two times, a week or so apart, and then they'll be followed by a ten day period during which the bidders can fill out their forms. Then on Tuesday, March 20, 2012, all the bids will be brought to you at this room and they will be opened and read aloud into the record. We will take them under advisement for the period of a week or two and come back at the next meeting, which should be about April 5<sup>th</sup>, and make our recommendations for contracts.

Madelyn Grayson: Bill, I did not print that out for them to sign. Do you have a blank one that they can use?

Bill Jeffers: Oh, I have plenty of copies.

Madelyn Grayson: Okay, good.

Bill Jeffers: They're all good, clean copies, which I will assume is an original. Let me sign my name on here.

Commissioner Melcher: This is the annual thing we do every year, Bill?

Bill Jeffers: Yes, sir. It's the very same thing we do every year.

Commissioner Melcher: We sit here and read all of those numbers and everything.

Bill Jeffers: That's what the law requires.

President Kiefer: Bill, I think you've done this a few times before, so, I'm confident that this is the—

Commissioner Melcher: No, but Joe will be interested in it this time.

President Kiefer: Yeah.

Commissioner Melcher: I'm talking about Harrison.

Bill Jeffers: Linda will come down and sit with Joe, so that the ditches are pronounced in their correct local German pronunciations.

Joe Harrison, Jr.: You've been doing it for a long time. I remember it from 15 years ago.

Bill Jeffers: Oh, that's right, you did do that, you have done this before too, Joe.

President Kiefer: Okay. So, would you make a motion to approve the notice to bidders?

Commissioner Melcher: Yes, so moved.

President Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes. So approved.

**(Motion approved 2-0)**

<b>Other Business</b>
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President Kiefer: I see you have some other business here.

Bill Jeffers: Yes, sir. We were notified earlier, with pictures, which I didn't have time to put up on our display, because we just got them. We have an emergency in Maidlow Ditch where several felled trees have fallen into the stream and are gathering other debris and causing logjams. We feel it's an emergency, and we have already instructed some landowners who had the equipment, which would include Hoffherr, Dave Hoffherr from the nursery. He has the equipment to do this, to go out and remove those trees before they gather up any more debris and cause a flooding situation. I consider it an emergency. I will tell you that I do not think it will exceed \$500, and I ask you to approve my action to take an emergency effort to remove those from the creek.

Commissioner Melcher: I'm okay with this. Where's Maidlow Ditch at?

Bill Jeffers: Okay, it runs from the Town of Darmstadt, there's a Lutheran Church, I believe it's Trinity Lutheran Church.

Commissioner Melcher: Trinity Lutheran.

Bill Jeffers: Just down the hill from there on Boonville-New Harmony Road—

Commissioner Melcher: Okay, I know where that's at.

Bill Jeffers: — that where it starts. It runs north for about a mile, turns west and goes through Hoffherr's Nursery, under St. Joe Avenue—

Commissioner Melcher: Okay.

Bill Jeffers: — on down to where it joins with Buente Upper Big Creek, and then eventually into Pond Flat. It basically drains Scott and Armstrong Township from about Fleener Road up to, oh, close to Baseline Road.

Commissioner Melcher: So, I move to accept his emergency tree removal.

President Kiefer: Because it's so evident that Bill knows his ditches, I'm going to second that. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes. So approved.

**(Motion approved 2-0)**

<b>Approval of Ditch Maintenance Claims</b>
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President Kiefer: You have some claims?

Bill Jeffers: Yes, sir, I have some claims which basically wind up several ditches in the same part of the county as we were talking about, northwestern part of the county. It winds up all the payments for several of those ditches up there from 2011. The paperwork is attached, everything's been inspected and we recommend approval of those claims.

Commissioner Melcher: I'll make a motion to approve the claims.

President Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

President Kiefer: Yes.

**(Motion approved 2-0)**

<b>Public Comment</b>
-----------------------

Bill Jeffers: You know it has been pleasurable being the elected ditch digger for Vanderburgh County. It doesn't take, you know, you don't have to be real fancy or anything. Just come down here—

President Kiefer: I like that.

Bill Jeffers: – deal with the smiling faces behind the counter.

President Kiefer: There's nothing wrong with being ditch digger.

Bill Jeffers: That's right. Okay, that's all I have tonight.

President Kiefer: And, obviously there's no public comment. So, I'll ask—

Bill Jeffers: Okay, enjoy your evening and happy Mardi Gras.

President Kiefer: Thank you.

Joe Harrison, Jr.: Thank you.

Commissioner Melcher: Okay, I'll make the motion to—

President Kiefer: Adjourn.

Commissioner Melcher: —adjourn. I was getting there.

President Kiefer: We're adjourned.

Commissioner Melcher: Second?

President Kiefer: Second. Aye.

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

**Those in Attendance:**

Joe Kiefer  
Joe Harrison, Jr.  
Members of Media

Stephen Melcher  
Madelyn Grayson

Bill Jeffers  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
MARCH 20, 2012**

The Vanderburgh County Drainage Board met in session this 20<sup>th</sup> day of March, 2012 at 5:55 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for March 20, 2012.

**Pledge of Allegiance**

President Kiefer: If Mr. Jeffers would lead us in the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you.

**Permission to Open Annual Ditch Maintenance Bids**

President Kiefer: It says here on the agenda open annual bids, read into record and take under advisement.

Bill Jeffers: Yes, order your, order it done.

Commissioner Melcher: Yes, I'll make the motion that we open up the bids so we can get moving.

Commissioner Abell: Second.

President Kiefer: Okay, all in favor.

All Commissioners: Aye.

**(Motion approved 3-0)**

**Approval of the February 21, 2012 Drainage Board Meeting Minutes**

Bill Jeffers: Then you'll want to approve the minutes of the previous meeting.

President Kiefer: Oh, sorry, missed that. See I was in such a hurry—

Bill Jeffers: No, that's the first order of business right there.

President Kiefer: Okay, look for a motion to approve minutes of previous meeting.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: All in favor?

All Commissioners: Aye.

**(Motion approved 3-0)**

Commissioner Kiefer: So done.

<b>Approval of Ditch Maintenance Claims</b>
---

Bill Jeffers: Okay, you might want to skip down to claims. All of those are retainage—

Joe Harrison, Jr.: Okay, you can do all of that first.

Bill Jeffers: —and it's due for work that was done last year. We hold that until the contractor certifies that everyone that he employs has been paid.

Commissioner Abell: So, then you release the monies back to them?

Bill Jeffers: Then we release the money back to the contractor. Which, I'm recommending you do at this time.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in, well, let's do roll call. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Bill Jeffers: Okay, so those can go ahead and be signed, or however you process them and I'll go to the drainage plans.

<b>Lincoln Dane Subdivision: Final Drainage Plan</b>
--

Bill Jeffers: The first one is Lincoln Dane Subdivision. This is on Volkmann Road out by Cambridge development, just off of Highway 41, north of the new high school. We looked at the preliminary plan and it went to Area Plan Commission and it was approved, the plat was approved there. So, now we're coming back and asking that the final drainage plan for Lincoln Dane Subdivision be approved at this time, and that is the recommendation of the County Surveyor.

President Kiefer: Is there a motion to approve?



Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Roll call please, or discussion.

Commissioner Abell: Is this just going to be a subdivision of six lots?

Bill Jeffers: Yes, Ma'am. It was originally two lots, lot six and part of lot one, and then the tier you see out front was one lot, but the developer, Mr. Randy Johnston, had some interest in, because the new high school is being built out there, had some interest for purchasers of smaller lots, and he made six lots there, and he's going to build a lake that touches all of the lots. It will be really nice. It's out there by Cambridge Golf Course—

Commissioner Abell: And, how big is it?

Bill Jeffers: Each of those lots are large enough to have a private septic system.

Commissioner Abell: Two and a half acres.

Bill Jeffers: Two and a half acres.

Commissioner Abell: Oh.

President Kiefer: It just looks small on the—

Bill Jeffers: Oh, it's a large piece of property.

Commissioner Abell: Yeah, it looks small.

Bill Jeffers: No, each lot is at least two and a half acres.

President Kiefer: What's the frontage on those, on each of those? I'm just curious for curb cuts, so there's going to be multiple curb cuts right along there then.

Bill Jeffers: I think, I'm going to have the engineer explain that, because that wasn't part of the drainage plan, that was part of the zoning—

President Kiefer: Right, no, I know that. I was just curious.

Bill Jeffers: I would say the frontage is greater than 660 feet, because it's greater than ten acres.

President Kiefer: Yeah.

Tom Keith: Tom Keith with Easley Engineering. I'm here to speak for Justin Shofstall who is the designer on this project, but going from lot one to lot six the frontage would be 63, 75, 75, 89.16, 85 and 60.

President Kiefer: Okay.

Tom Keith: Which meets minimum requirements.

President Kiefer: Okay, no, I mean, we're not here to approve that portion of it, I was just curious.

Commissioner Melcher: The one thing, remember we passed this under the first plan, under the first reading, Area Plan did pass it, and each time we brought it up on the record that that lake is going to be owned by all six individuals—

President Kiefer: Right.

Commissioner Melcher: —not the county.

Tom Keith: And that is correct.

Commissioner Melcher: You know, we, because all of the lakes that we're getting lately, that nobody's claiming. They will know they own this lake when they buy this property.

President Kiefer: Yeah.

Commissioner Abell: It looks like a nice subdivision.

President Kiefer: It seems like you would almost need an association to manage—

Tom Keith: There would be an association is my understanding.

President Kiefer: Yeah, because trying to get everybody together on that lake, that seems like that could be a complication.

Tom Keith: There are certain covenants and restrictions and the association will, to the best of my knowledge will be formed.

Bill Jeffers: It's called herding cats.

President Kiefer: Yeah. I think we have a—

Bill Jeffers: You have a recommendation.

President Kiefer: Yeah, but I think Councilman, I mean, Commissioner Melcher made a first.

Commissioner Melcher: Yes, I went ahead and made the motion.

Commissioner Abell: And I seconded it.

President Kiefer: Okay, then, roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

<b>Bluegrass United Methodist Church: Final Drainage Plan</b>
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Bill Jeffers: Okay, our second one, if you look at the screen, is quite an ambitious undertaking by Bluegrass United Methodist Church on Petersburg Road at Cemetery Road. This is immediately across Cemetery Road to the west of their current complex. This is a total of 24, almost 25 acres, that's outlined in yellow on your screen, that will encompass the entire new complex, however, they're only developing at this time the eastern half of that, closest to Cemetery Road, and of the half, of the 11 acres that they're developing, really (tape flip) three quarters of an acres of hard surface, 33,370 square feet of hard surface, which, for which they have one small lake that will be down near the intersection of Cemetery and Petersburg, into which all of the hard surface will drain. This is just phase one. I said it was an ambitious undertaking because phase one is simply a sanctuary, parking, community shelter house, and yet in the future they are going to expand their parking quite a bit, they are going to add tennis courts, sand volleyball courts, softball and soccer fields for the children, etcetera. Still, there will be a substantial area of grass and agriculture that will buffer this from the tributary to Schlensker Creek that's off to the west of all of this, and they will be detaining their excess storm water runoff in the basin before it's discharged into the county roadside ditches. The plan, again, is brought to you by Easley Engineering, Tom Keith is in the audience if you have any questions. It looks like the bids are finished opening, so, I'll stop jabbering and make the recommendation—

Linda Freeman: Oh, no, no, no, I'm still trying to write them down.

Bill Jeffers: Oh, okay. I believe Bluegrass Creek, just out of historic interest, Bluegrass Creek United Methodist may be, if not the oldest church in Vanderburgh County, one of the very oldest churches in Vanderburgh County. It's one of the oldest congregations of the original Methodist inhabitants that inhabited that area of Scott Township. They were some of the first immigrants to this area. That's just an historic tidbit. Their cemetery is very old. The County Surveyor has reviewed this drainage plan and spoken with the design engineer and recommends approval.

President Kiefer: Okay, thank you, Mr. Jeffers. Is there a motion to approve Bluegrass United Methodist Church final drainage plan?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: In the meantime, thank you, so approved.

<b>Other Business</b>
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President Kiefer: We're waiting yet for the opening and recording. Is there any other business?

Linda Freeman: Claims?

President Kiefer: No, we've already done claims, haven't we? No public comment?

Commissioner Abell: (Inaudible. Microphone not on.) Bluegrass Church is?

Bill Jeffers: I'm thinking 1836 or so. Do you know, Tom?

Tom Keith: I have no idea.

Bill Jeffers: I just remember reading some of Mr. McCutchan, Kenneth McCutchan's books and there was a group of Scottish and English or Welsh immigrants to that area. I think it was Scottish and, they were Methodists, so maybe they were from northern England or whatever, that immigrated into that area very early, and it was one of the very first churches to be established in Vanderburgh County.

Commissioner Abell: Because I live, well, you know where I live--

Bill Jeffers: Right, Old North.

Commissioner Abell: -- and Old North is considered, they've always counted (Inaudible. Microphone not on.) --

Bill Jeffers: Yeah, and that's another one of those, that same community of early immigrants that bought the first tracts of land in the Vincennes Courthouse.

Commissioner Abell: (Inaudible. Microphone not on.).

Bill Jeffers: The one in Petersburg and McCutchanville, Johnston Chapel, that's another one of those Methodist churches that was established. While Linda is still filling out your spreadsheet over there, we did get a call, well, Marissa, your office manager, did get a call, I believe, from a Pam Hayes or Haynes, I'm sorry Mrs. Haynes, it's Hayes, I'm sorry, regarding a logjam in Pigeon Creek there behind Keystone Subdivision right there by Green River Road. We're aware of that, as a matter of fact, Commissioner Abell and I took a boat trip across that logjam last year, and Commissioner Abell is also, I believe, in discussions with the Warrick County Commissioners about a joint project, pursuing that to remove many logjams from Pigeon Creek, this one being a major one. I responded through the Mayor's, Mayor

Winnecke's new complaint process, his assistant sent me an e-mail earlier today, and I responded through there, because Mrs. Hayes had contacted the Mayor's office first. She's concerned that this would back water up into Keystone, but I assured, I'm ready to assure anyone that water will never back up into any domiciles in Keystone Subdivision, they are all above a protected grade, well above the base flood elevation regardless of the logjam, but I understand her concern.

Commissioner Abell: (Inaudible. Microphone not on.) near Green River Road?

Bill Jeffers: Yes, Ma'am, I believe they're all above the 100 year flood—

Commissioner Abell: I'm not doubting you.

Bill Jeffers: Well, they are down, I mean, you have seen what happened on Green River Road, what it was in 2006. Actually, remember the old bridge that was there, it got about six inches of water on top of it in 1961 and '64, that was the 100 year elevation, about six inches above the old bridge, but I don't think it would ever get up into the homes. It may flood some streets down there at the entrance.

Commissioner Abell: Now, Soil and Water and Mike Wathen (Inaudible. Microphone not on.) another logjam (Inaudible. Microphone not on.) I'm sorry, she wants me to turn my microphone on, I'm really just kind of talking here. They went out to look at one, Mike Wathen and Soil and Water went out to look at one, it's on Charlie Wagner's property.

Bill Jeffers: Is that on the east side also?

Commissioner Abell: Yeah, almost to Warrick County. Actually, Charlie Wagner's farm is in Warrick County—

Bill Jeffers: Okay.

Commissioner Abell: — he's on Millersburg Road, I believe—

Bill Jeffers: I'm familiar with the Wagner farm there.

Commissioner Abell: — and there's a place there that, I guess, is just really, really bad, that makes a big turn, Pigeon Creek makes, they called it, "hairpin" was Mike Wathen's term, and it's really, really jammed up right now. I think you're probably going to get some information on that—

Bill Jeffers: Okay.

Commissioner Abell: —because, I got a call from the Warrick County Commissioner who said, you know, this is in Vanderburgh County, but I think there's some question as to, you know, it's right on the county line, right on the county line.

Bill Jeffers: Well, that's where, I'm wondering whether you were the Commissioner the year we spent—

Commissioner Abell: No.

Bill Jeffers: Okay, the previous administration of Commissioners appropriated \$10,000 to be spent on that curve—

Commissioner Abell: Yeah.

Bill Jeffers: – and we took out a substantial logjam that was right on the county line, although the flood water had forced it into Vanderburgh County. It came from Warrick County–

Commissioner Abell: Yes.

Bill Jeffers: – it was washed into Vanderburgh, and lodged in Vanderburgh, and we took that out. Now, that seems to be a problem curve.

Commissioner Abell: Yeah, and Mr. Wagner, I guess, indicated that it had been cleaned out once before, and he's aware of that–

Bill Jeffers: Right.

Commissioner Abell: – and grateful, but that it's almost forcing Pigeon Creek to make it take a new direction it's eroding it so bad right now. So, you may want to talk to Mr. Wathen and maybe take a look at it too, but it just seems like it's an ever occurring problem that we might need to...and, if it isn't all in Vanderburgh County, maybe we could at least get Warrick to chip in a little bit on it.

Bill Jeffers: We tried that.

Commissioner Abell: I know, but it's their tax payer and their voter and two of them are up for re-election this year too, so, they might be more inclined to do it now.

Bill Jeffers: I agree with the farmers, and not only the farmers, we have residents in Vanderburgh County that are being affected who just live there and don't farm. As a matter of fact, this logjam that you are speaking of has backed water up all the way into the Town of Chandler.

Commissioner Abell: Oh, I don't doubt it.

Bill Jeffers: It has actually, it prevented our contractor getting to it, and he was accessing it from a road that came out of the Town of Chandler. He couldn't get to it because the water was so high.

Commissioner Abell: They had a hard time getting to it even–

Bill Jeffers: Right.

Commissioner Abell: –because it's kind of in a remote area.

Bill Jeffers: I do want to remind everyone, as I did respond to the Mayor's office, that the Vanderburgh County Surveyor is not responsible for the maintenance of Pigeon Creek. In Warrick County it is a regulated drain. In Vanderburgh County it never has been a regulated drain. So, the appropriation of money would have to come from a fund other than the Drainage Board funds. Yes, we are here to serve Vanderburgh County residents and Warrick County jointly, because we have a joint Drainage Board with Warrick County, and we will do so. All of us, you, and our office will, to the best of our ability, but we have no funds available without having those either granted to us by the federal government under Emergency Management funds, or whatever, FEMA funds, or coming from the State legislature, giving us some of their

improvement funds, or if the Commissioners wish to pursue some assessment of properties served by Pigeon Creek, which would be a very substantial undertaking.

Commissioner Abell: Yeah, I know it would be very expensive. I think, we have a little bit of money, we might be able to do a little something, but I would certainly–

Bill Jeffers: Right.

Commissioner Abell: – I mean, this Board is obviously, relies on your opinion and values your opinion, so, I would certainly want at least to hear from you before we spent any money on anything.

Bill Jeffers: Right, well, the last time your Board appropriated, the Commissioners themselves appropriated \$10,000, it did not take all of that to remove the logjam. I suspect that this one's no worse.

Commissioner Abell: Okay.

Bill Jeffers: So, you would be looking at possibly \$10,000 or less to remove it, if it's the same as it was before. It would have to be done through a bidding process.

Commissioner Abell: It's going to come back. It's just a matter of time.

Bill Jeffers: Oh, it will come back, because every time you have an ice storm or a wind storm and we seem to have quite a few wind storms, especially, it blows trees into the creek, and whether they come from Warrick County or Vanderburgh County they all end up washing downstream as far as they can make it, then jam up together–

Commissioner Abell: Right there in that curve.

Bill Jeffers: If you looked at a map you can see that Pigeon Creek is just a series of hairpin curves all along our joint boundary with Warrick County.

Commissioner Abell: It is.

Commissioner Melcher: Yeah, it keeps going in and out.

Commissioner Abell: Yeah, it does.

Bill Jeffers: But, the places where it seems to like to lodge is–

Commissioner Abell: In Vanderburgh County.

Bill Jeffers: – in Vanderburgh County.

Commissioner Melcher: Maybe we could change the path where it will stay in Warrick County.

Bill Jeffers: It would be nice to channelize that creek and just turn it into a series of oxbow lakes with a straight channel running through all of them. It would be a wonderful wildlife area, with an improve channel running through it.

**Reading of 2012 Annual Ditch Maintenance Bids**

Bill Jeffers: Here we go.

Commissioner Abell: Okay.

Bill Jeffers: This is what we came for.

President Kiefer: Now we're ready to continue on. So, we should read into the record.

Joe Harrison, Jr.: Well, we've opened some bids, and we'll go through them quickly, and I'm assuming we'll ask that the Board take them under advisement, and, I guess, at our next meeting we'll see who the low bidders are. Anyway, the first bidder, R.R. Rexing Farms, and this is on Pond Flat ditch, I'm sorry, Pond Flat Lateral "A", the amount is \$743.54; the next one is R.R. Rexing Farms, Pond Flat Lateral "B", \$391.58; the third, R.R. Rexing Farms bid is for Pond Flat Lateral "D", and that amount is \$641.06, six hundred forty one dollars and six cents. Now we have some bids by John Maurer, M-a-u-r-e-r, this is for Baehl Ditch, \$561.25 is the bid amount on that one; John Maurer again on Hoefling Ditch, and that bid amount is \$557.10, five hundred fifty seven dollars ten cents. Now we go on to bids by Union Township Ditch Association, and the first is for Cypress-Dale Maddox, that bid amount is \$774.03; the next Union Township Ditch Association bid is on Helfrich-Happe Ditch, bid amount \$571.41; the next bid by Union Township Ditch Association is for Barnett Ditch, that bid amount is \$274.32; the next bid by Union Township Ditch Association is for Edmond Ditch, E-d-m-o-n-d Ditch, that amount is \$3,526.25, three five twenty-six twenty-five, and the last bid by Union Township Ditch Association is for Kamp, K-a-m-p Ditch, and that's \$502.20, five hundred two dollars twenty cents. Then we've got a group of bids by Eldon Maasberg, M-a-a-s-b-e-r-g, his first bid is on Baehl Ditch, and that bid amount is \$1,102.40; the next bid by Eldon Maasberg is for Kneer Ditch, and that bid amount is \$410.40; the next bid by Mr. Maasberg, Eldon Maasberg is for Maasberg Ditch, and that bid amount is \$220.60; and the last bid by Mr. Eldon Maasberg is for Wallenmeyer Ditch, and that bid amount is \$1,253.25. Then we've got some bids by Big Creek Drainage Association, the first bid that they're submitting is for Maidlow Ditch, that bid amount is \$3,174.07; the next bid by Big Creek Drainage Association is for Buente Upper Big Creek, and that also includes silt removal by them, that bid amount is \$11,004, \$11,004; the next bid is by Big Creek Drainage Association is for Barr Creek, and that includes some additional work that they've listed, that bid amount is \$10,261.53; the next bid by Big Creek Drainage Association is for Pond Flat, that bid amount is \$5,527.80; the last bid by Big Creek Drainage Association is for Rexing Ditch, and that included some additional work, that bid amount is \$12,031.52. Now we have bids by Shideler or Shidler—

Linda Freeman: Shideler.

Joe Harrison, Jr.: —Shideler.

Linda Freeman: Shideler Spray Service.

Joe Harrison, Jr.: Shideler Spray Service. The first is for Aiken Ditch, that bid amount is \$416; the next bid by Shideler, it indicates dormant spraying for Barnett Ditch, \$271.44, two hundred seventy one dollars forty four cents; the next bid by Shideler



is for Cypress Dale Maddox, that's \$768.69, seven hundred sixty eight dollars sixty nine cents; the next for Eagle Slough, that bid amount is \$5,407.20; the next bid by Shideler Spray Service is for Eastside Urban south half, \$2,763.08; the next bid by Shideler is for Edmond Ditch, that's \$611.80; the next bid by Shideler is for Henry Ditch, that's \$365.59; the next bid by Shideler is for Keil, or Keil Ditch, Keil Ditch, \$313.25; the last bid by Shideler for this group is Sonntag Stevens, that's \$655.98. It looks like Shideler has more, so I'll keep going, Shideler Spray Service, they've provided a bid for Aiken Ditch, and I guess this is, not dormant spraying—

Linda Freeman: No.

Joe Harrison, Jr.: —so this would be—

Linda Freeman: Broadleaf and brush.

Joe Harrison, Jr.: — broadleaf and brush, and what's this foliar?

Linda Freeman: Foliar.

Joe Harrison, Jr.: Foliar, I'm sorry, foliar I don't know about that, spraying, for Aiken Ditch, two hundred nine, I'm sorry, \$971.28; by Shideler for Barnett Ditch is \$282.75; for Cypress Dale Maddox Ditch by Shideler is \$768.89; for Eagle Slough by Shideler is \$4,806.40; for Eastside Urban north half by Shideler it's \$2,070.45; and for Eastside Urban south half by Shideler, they've bid \$2,821.25; for Edmond Ditch they've bid \$611.80; for Harper Ditch they've bid \$295; for Keil it's \$292.16; for Kolb Ditch, \$425.13; and for Sonntag Stevens Ditch Shideler bid \$655.98. Now, for Eastside Urban south half, Shideler has bid \$2,102.03; and this is for sterilization of ditch bottoms is what the Eastside Urban south half was for, and now the Harper sterilization of ditch bottoms for Harper Ditch is \$265.50; for Kolb Ditch it's \$420.65 is their bid; and their bid on Sonntag Stevens Ditch for sterilization purposes, \$621.45. We're on to the last page, next we have bids by Mark Naas, and this is for Aiken mowing, the bid amount is \$3,894; I'm going to add one at the top there, Mark Naas, beaver dam removal, \$680; Mark Naas, Eastside Urban south half Crawford Brandeis and Bonnie View Extension late spring and fall mowing, that bid amount is \$865.55; Mark Naas—

Linda Freeman: \$868.55.

Joe Harrison, Jr.: I'm sorry, \$868.55; \$868.55 for Eastside Urban south half Crawford Brandeis; Mark Naas again, Eastside Urban south half, this is Stockfleth Mid Summer mowing, \$1,037.85; Mark Naas, the bid for Harper mowing is \$2,327.55; Mark Naas bid on Kolb, Section B Mid Summer and Fall mowing, \$1,336.63; Mark Naas, Kolb Ditch, Section A Fall mowing, \$1,454.65; Mark Naas, Sonntag Stevens mowing, late Spring, \$2,430.12; and the final bid by Mark Naas for Sonntag Stevens mowing in the Fall, \$8,339.20. Now we have some bids by McCullough Land Improvements, the bid amount for Sonntag Stevens mowing, and I guess this is two times—

Linda Freeman: Yes.

Joe Harrison, Jr.: —is that correct? \$8,135.80; McCullough Land Improvements for Kolb Ditch mowing, two times, thirteen thousand, no, I'm sorry, \$1,338.75; one thousand three hundred thirty eight dollars seventy five cents; McCullough Land Improvements for Harper Ditch mowing, just one time, \$2,301, two thousand three

oh one; for McCullough Land Improvements, Stockfleth Ditch mowing Eastside Urban south one half, south half, that bid amount is \$1,039.50; McCullough Land Improvements for Aiken Ditch mowing, that's \$3,900; and then we have McCullough Land Improvements their bid for Bonnie View Extension mowing, \$884.50. I'll go on to McCullough Land Improvements for Kolb fall mowing, \$1,457; and then McCullough Land Improvements for Sonntag Stevens Ditch, that bid amount is \$2,402.40, and we're checking one last thing here.

Linda Freeman: Bonnie View and Crawford Brandeis are actually together in that \$884, so it's actually a combination of those two.

Joe Harrison, Jr.: Okay, on McCullough Land Improvements on their bid on Bonnie View Extension mowing and the Crawford Brandeis Ditch, they submitted a bid for both of those, it's \$884.50. So, I would ask that the Board take these bids under advisement, and the County Surveyor will get back with us with his recommendation after reviewing all the information, April 3<sup>rd</sup>.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes. Okay, I think that covers everything, unless there's anything else.

Bill Jeffers: No, I think I hear the opening act warming up.

President Kiefer: Then, I'll ask for a motion to adjourn.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: Alright, all in favor aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: We're adjourned.

(The meeting was adjourned at 6:25 p.m.)

**Those in Attendance:**

Joe Kiefer  
Bill Jeffers  
Linda Freeman

Stephen Melcher  
Joe Harrison, Jr.  
Others Unidentified

Marsha Abell  
Madelyn Grayson  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribe by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
APRIL 3, 2012**

The Vanderburgh County Drainage Board met in session this 3<sup>rd</sup> day of April, 2012 at 5:55 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: Okay, I would like to call to order the Vanderburgh County Drainage Board for April 3, 2012.

**Pledge of Allegiance**

President Kiefer: I would like to ask Mr. Jeffers to lead us in the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you very much.

**Approval of the March 20, 2012 Drainage Board Meeting Minutes**

President Kiefer: I would like to have a motion to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: So approved.

**Approve Bids for 2012 Ditch Maintenance**

President Kiefer: Next, approve contracts for the 2012 ditch maintenance. We'll turn that over to the County Surveyor.

Bill Jeffers: Okay, I have put on your desk, in front of you, a listing of all the bidders who are the lowest responsive and responsible bidder for the bids that you opened at your last meeting, with all of the figures, whether they be lump sum or submitted per lineal foot, etcetera. Everything is broken out for you, showing you what the bids we received are. As I said, they are the lowest, responsive bidder, ditch by ditch, all 30 ditches, or parts thereof. The recommendation from the County Surveyor is to approve the bids shown on this sheet as the lowest, responsive bidder for 2012 for each of those ditches.

President Kiefer: Can we vote—

Commissioner Melcher: Yes.

President Kiefer: –to approve as submitted? Bids received for maintenance of legal drains dash 2012 document.

Bill Jeffers: Yes, that's the way we've done it for the past many years.

President Kiefer: Okay.

Bill Jeffers: I would recommend that you do it that way tonight.

President Kiefer: Okay, well then–

Commissioner Melcher: I'll make the motion to accept it.

President Kiefer: Is there a second?

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: So approved.

<b>Other Business</b>
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President Kiefer: Other business?

Bill Jeffers: Commissioner Kiefer, I have no further business. I have no claims, and I know of no public comment, unless there's one to come from the audience.

<b>Public Comment</b>
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President Kiefer: Is there public comment regarding drainage? Okay, well, thank you very much. I move that we adjourn then.

Bill Jeffers: Thank you.

President Kiefer: We are adjourned.

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

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

Others Unidentified

Marsha Abell

Joe Harrison, Jr.

Members of Media

Stephen Melcher

Madelyn Grayson

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
APRIL 17, 2012**

The Vanderburgh County Drainage Board met in session this 17<sup>th</sup> day of April, 2012 at 5:25 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for April 17, 2012.

**Pledge of Allegiance**

President Kiefer: If we could open with the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you very much.

**Approval of the April 3, 2012 Drainage Board Meeting Minutes**

President Kiefer: Would like to--

Commissioner Melcher: I make a motion that we approve the claims.

President Kiefer: Well, I was going to, what about the motion to approve minutes?

Linda Freeman: Previous minutes.

Commissioner Melcher: I make a motion to approve the previous meeting's minutes.

President Kiefer: Is there a second?

Commissioner Abell: Second.

President Kiefer: All in favor?

All Commissioners: Aye.

**(Motion approved 3-0)**

**Approval of Ditch Maintenance Claims**

President Kiefer: Okay, now a motion to approve the claims.

Linda Freeman: I brought three claims. They've been inspected by our inspector and we would like to get them paid.

President Kiefer: Okay.

Commissioner Melcher: Motion to approve.

President Kiefer: There's a first, is there a second?

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Linda Freeman: Thank you.

<b>Other Business</b>
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President Kiefer: Other business?

Linda Freeman: No.

<b>Public Comment</b>
-----------------------

President Kiefer: Well, public comment? I see only the other branch of government, the fourth branch of government.

Linda Freeman: I already said no public comment.

President Kiefer: Yeah, okay, then motion to adjourn?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Abell: All in favor, aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: We are adjourned.

(The meeting was adjourned at 5:26 p.m.)



**Those in Attendance:**

Joe Kiefer

Linda Freeman

Others Unidentified

Stephen Melcher

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
JUNE 5, 2012**

The Vanderburgh County Drainage Board met in session this 5<sup>th</sup> day of June, 2012 at 7:50 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: Okay, I would like to call to order the Vanderburgh County Drainage Board.

**Pledge of Allegiance**

President Kiefer: For the third time tonight, I'm going to ask for the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

**Approval of the April 17, 2012 Drainage Board Meeting Minutes**

President Kiefer: Just so you know, we've been here since about 12:30 this afternoon.

Bill Jeffers: So, I beat you.

Commissioner Abell: In meetings.

President Kiefer: In meetings.

Commissioner Abell: In meetings in this room.

Bill Jeffers: Grueling meetings, okay. This one won't take long. You need to approve the minutes of the previous meeting.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

**Request for Special Drainage Board Meeting for June 12, 2012**

Bill Jeffers: The next order of business is a continuation of what you just took care of in the rezoning. Mr. Combs is requesting a special meeting to be held June 12<sup>th</sup>, next Tuesday, because of a mix-up in our scheduling on what we advertised as meeting dates for 2012. His engineer, Mr. Keith Poff, was under the impression left by our website, that there was a meeting on June 12<sup>th</sup> of the Drainage Board and sent out notices to adjacent property owners that the drainage plan would be heard

at that time. The drainage plan has to be heard at that time for the PUD to move forward to Area Plan Commission on Thursday–

Commissioner Abell: Oh.

Bill Jeffers: –and the Surveyor respectfully apologizes for the mix-up and asks if you will have a short, special meeting, only for the purpose of reviewing the preliminary drainage plan.

Commissioner Abell: After our regular meeting?

Bill Jeffers: I don't think you have a regular meeting on June 12<sup>th</sup>.

Commissioner Melcher: We don't have one.

President Kiefer: It's the following week.

Commissioner Abell: Oh, you're asking us to come in special? Oh.

Bill Jeffers: You can set it for any date before the 14<sup>th</sup>. Anytime of any day before the 14<sup>th</sup>.

Commissioner Abell: Well, there's a problem though, you're gone–

Commissioner Melcher: I'm gone.

Commissioner Abell: – I'm going to be in Gulf Shores, Alabama.

Bill Jeffers: All next week?

Commissioner Abell: Yeah, we're leaving Sunday morning.

Bill Jeffers: Okay.

Commissioner Abell: Because we didn't have a meeting on Tuesday, that's how I work my vacations around.

Bill Jeffers: Right.

Commissioner Melcher: And, I worked mine to leave in the morning, and to be back, hopefully, by the 19<sup>th</sup>.

Bill Jeffers: Joe, are you schizophrenic? Do you have two personalities?

President Kiefer: Maybe.

Commissioner Abell: Mr. Harrison, what do we need to do?

Bill Jeffers: I guess not.

Joe Harrison, Jr.: Well, you've got to wait until the 19<sup>th</sup>.

Bill Jeffers: Okay.

Joe Harrison, Jr.: I mean, you have to have two.

Bill Jeffers: Yes, you have to have two members to vote.

Commissioner Abell: I'm sorry.

Joe Harrison, Jr.: I'm assuming we'll have two the 19<sup>th</sup>.

Commissioner Abell: I'll be here.

President Kiefer: I'll be here. I guess then—

Bill Jeffers: That puts the development a whole month—

President Kiefer: Back.

Bill Jeffers: —into July. Yes.

President Kiefer: I mean, I hate that that has to happen, because I really think that's going to be a good development, but it sounds like we don't have a choice. So, I'll ask for a motion to have a, hear this on the—

Joe Harrison, Jr.: You can't do anything tonight?

Bill Jeffers: No, we don't have a preliminary plan to present.

Joe Harrison, Jr.: Oh.

President Kiefer: So, is there a motion to—

Joe Harrison, Jr.: There's nothing to do.

Commissioner Abell: There's nothing to do.

Commissioner Melcher: There's nothing to do.

President Kiefer: Well, I know, but we are going to put it on the agenda—

Commissioner Abell: He'll just put in on the agenda.

Joe Harrison, Jr.: It will be on there.

Bill Jeffers: It will be on the 19<sup>th</sup>--

President Kiefer: We don't need to advertise?

Joe Harrison, Jr.: There's nothing to do.

Bill Jeffers: —regardless.

President Kiefer: So, we'll move on to the next thing then.

**Gene Adler: Comments Regarding Stop Work Order for  
Unauthorized Project in Pond Flat Main**

Bill Jeffers: Is Mr. Gene Adler in the audience?

Gene Adler: Yes.

Commissioner Abell: Okay, what's this?

Bill Jeffers: Okay, this is with regard to a stop work order—

Commissioner Abell: Oh.

Bill Jeffers: — that I called Mr. Adler for an unauthorized project proceeding in Pond Flat Main.

Commissioner Abell: Okay.

Gene Adler: I'm Gene Adler and I've got a small farm out on Bixer Road and Mann Road. This ditch has been washing, mainly noticed it in the last five or six years, but I think it all started when this wooden bridge was built on Mann Road. I got some pictures here for each of you to look at. The pilings in that, on that ditch are, they're not in line with the (Inaudible).

Commissioner Abell: Give them to him, oh, you have three sets.

Gene Adler: Yeah.

Commissioner Abell: Thank you.

President Kiefer: Thank you.

Commissioner Abell: Let me get an idea of where this is, just a moment.

Gene Adler: It's in northwest Vanderburgh County.

Commissioner Abell: Yeah. Okay.

Gene Adler: That aerial photo will show you right where it is there.

Bill Jeffers: It's about a half mile due north of Nisbit Station.

Commissioner Abell: Yeah, okay.

Gene Adler: But, the pilings in that Mann Road bridge are not in line, as you can see on some of those pictures there. I took about a dozen pictures, but you can see, like in the picture six or two, three, four, one, how they don't line up with the flow of water. It comes through there and it hits that bank, and it's eroding there. I've watched that for five, six years there, and I didn't know what to do, you know. I didn't want it to get up into my levee there, and then after the last few years we've got pretty good, wet years and the creek got up quite a few times, and it started to get to the top of the levee, and I thought, well, I've got to do something, you know. I had a brother that tore down an old garage and a little shop, and that concrete come out

of those buildings, well, I thought, well that's a pretty close place to put it. You know, it would suspend some movement down there and getting it stacked in there right, and I got an opinion from my brother who's been in the construction business for 50 years, he's 70 years old, and the guy that I hired to do that is 70 some years old, and I asked them what do you think? Wouldn't that concrete busted up, you can see the pictures of it, and, they said, well, it will work, but you've got to stack it in there, you just can't dump it in there. Which I figured that, you know, you just can't dump it in the creek. I started to do that and then Mr. Jeffers there said I needed to go through this, get this approved before you do all that, you know. But, I'm here tonight, I would like to finish that. As far as that concrete, it's not going to replace all the dirt that's been washed out over the years. So, it's not going to make the channel any narrower, but that new ditch, there's a new ditch, if you look at that aerial map, when you see the aerial photo, Mann Road and Bixer Road. That new ditch, I've got a line drawn through there, it goes, it's flowing northwest, and if you look on picture number nine, the county, when that new ditch was made, they rip rapped that, you know, where the new ditch intersects with Pond Flat, and that's not washing. That pile of rock that I've got circled that you see in the bottom, that's what washed out underneath the wooden bridge. When that wooden bridge was built, they rip rapped that underneath the bridge from one side all the way up the other. Some of that rip rap in the very bottom is that pile that you're seeing there. But if you see where I've got number nine and new ditch rip rap, that's been there since '80, when did you say that bridge was built, Bill?

Bill Jeffers: I'm thinking '88.

Gene Adler: Yeah, '88, and that's what washed out of there, but that rip rap's been put where that new ditch was put in, and that's staying right there. You can't even see half the rip rap because it's covered up with weeds and mud. But, if they would have rip rapped that just about another 75-100 feet, I don't think I would be standing here tonight, because what happens, the water is coming through that Mann Road bridge at a, it's not in the flow of the water, it kind of hits that bank. It's like in NASCAR, they hit the curve and then it gets down the middle, it's not washing all the way down the creek, it's just maybe 100 feet where it comes through that bridge. I just figured, I would extend what the county's doing, you know, I would extend that rip rap a little further. Like I say, I got the opinion of a couple of guys that's been in this business for 50 years, and they said it would work, but, you know, it's stacked. In other words, that's busted concrete, you put the biggest stuff on the bottom and then you just, and the bottom holds the top. You know, they said it would work, I don't know. I mean, like, I say, I felt like I had to do something, because it's starting to get up into my levee.

Commissioner Abell: Do you farm that out there?

Gene Adler: Yes.

Commissioner Abell: Okay, Mr. Jeffers, do you mind (Inaudible)--

President Kiefer: Yeah, no.

Commissioner Abell: -- I'm sorry, I just, I didn't mean to take over.

President Kiefer: No, it's fine. I was just trying to discern what we can do.

Commissioner Abell: Yeah, I understand what you did, because you did what you have to do.

Bill Jeffers: Right.

Commissioner Abell: What do you think we should do at this point? I guess, that's what I'm—

Bill Jeffers: Well, as I, well, first of all, I would like to say that I don't believe that Mr. Adler did anything intentionally that he didn't think would work. I don't think he did anything intentionally to harm the county, the county's interest, or the creek, or whatever, but we do have certain procedures we have to follow when we are working in a regulated drain. We worked in the drain about 1,000 feet downstream last year, spent about \$37,000, and we laid the ditch banks back at a two and a half to one slope. They were having the same, exactly the same problem down there that is occurring here. So, we laid the ditch bank back and armored it with erosion control mat and planted grass and that's working very well. The reason we didn't use rip rap, they wanted to use rip rap down there too, the landowners did, those soils will not hold a load of rip rap. As the pictures have shown and as all evidence shows if you go out there and look at it, the rip rap that was applied underneath the bridge is now in the bottom of the ditch. I don't believe that the soils that this concrete is intended to be applied to will hold that load of rip rap, and I believe that it will end up in the bottom of the ditch as well. So, what I informed Mr. Adler was, to cease operation, be ready to repair the damage that's already occurred from the excavating equipment, be prepared to remove the concrete rubble from the site, and to wait until there is a plan in place prepared to adequately and appropriately address the problem. So, that's my recommendation.

President Kiefer: Bill, do we need to then, I mean, would you suggest, I mean, obviously, whatever is out there is not working, do we need to do some engineering? What do we need to do to correct this?

Bill Jeffers: Yes. We need to engineer a plan, when we have money available to implement the plan, we will do the same thing as what we did 1,000 feet downstream. If there are any issues with the bridge, the alignment of the piers, etcetera, that should be taken up with the County Engineer's office, under who's auspices the original bridge was put in at the time it was put in.

President Kiefer: But, right now we don't have the funds to—

Bill Jeffers: In our ditch fund we do not have funds available to address the problem at this time. We can begin work on a plan, and once the plan is developed, when funds are available we can implement the plan.

President Kiefer: Alright.

Gene Adler: You know, I don't think that the county is ever going to change that bridge, that wooden bridge. That's in there for the life of the bridge. I mean, those pilings don't line up right, but that's not going to change. That's the reason I decided to use rip rap, I mean, Bill says that rip rap's not holding, but you look at picture nine, this rip rap here, and that all was put in there when the county made this new ditch. That's holding. It's there, you can see it's holding. It's right past that where, that I had to start using—

President Kiefer: No, I understand, but, I mean, I think as he stated, I mean, we have a process we have to go through.

Bill Jeffers: Right, although the rip rap he's showing you in the picture is applied to a side ditch that was done 20 something years ago. Although it's at the intersection with the larger ditch, there's still two different forces of velocity at work here. It's much closer to the bridge. It's not getting the same pressure as the point that he is wanting to address with the rip rap that's being washed away from his levee. There's just some engineering elements that have to be taken into consideration. There's also the issue of where the concrete came from. It came from some sort of a shop. I'm assuming a farm shop, and some sort of garage. We don't know what kind of contaminants may have been stored in that garage and shop before it was torn down. There's issues about the slab concrete that's been torn up has flat sides. If those flat sides are in contact with the steep side of a ditch, the ditch at that point's only about one to one, those flat sides can slide just by gravity, not even taking into account the action of the water. There's a lot of things I don't want to go into tonight. I stick by my recommendation, an engineered plan must be developed, and when money is available to implement that plan, it will be implemented.

President Kiefer: I say we move forward with your plan. Mr. Adler, thank you very much for coming tonight. I appreciate your addressing this concern, and I think the County Surveyor understands what the issues are, and we're going to try to address it the best we can with the funds that we have available.

Gene Adler: Can I make one more comment?

Commissioner Abell: I think we ought to get....go ahead.

Gene Adler: Bill was talking about the job that they'd done last August on that curve, you know, and any farmer out there will tell you, what it did was what they had to do, you know, and it looks good now, but let's see what it looks like ten, 15 years down the road. This here ditch was dug and the bridge was put in 25, what '88, 24 years ago, and it's just in the last five years it shows its problems, you know. I mean, they'll tell you too, it looks good now, but let's give it some time. It ain't had no test yet. We had a dry winter, I mean, we ain't had no big floods yet. Let's see what happens, let's see what that looks like in 15-20 years, or ten or 15, it may look all together different. He mentioned the farmers all thought they needed rip rap, now I don't know, maybe it will work. But, you can't put it in in August, and what is this, eight, nine months, it ain't had a test yet. You might want rip rap in there yet.

Commissioner Abell: Mr. Adler, wait a minute. What's a phone number where you can be reached?

Gene Adler: 664-4826, 812 prefix.

Commissioner Abell: 664-482-

Gene Adler: 4826.

Commissioner Abell: I'm going to have the County Engineer, Mr. John Stoll, to get a hold of you.

Gene Adler: Okay.



Commissioner Abell: And see if he can go forward with a plan, as quickly as possible.

Gene Adler: Okay.

Commissioner Abell: Then we'll look at how much it's going to cost.

Gene Adler: I'll wait to hear from him then.

President Kiefer: But, in the meantime, we're going to have to have a motion here, and Joe's helping us craft something that we're going to need a motion on too. In the meantime, you're going to have to stop doing anything.

Gene Adler: Oh, yes, I won't do no more.

President Kiefer: I think Joe's finishing up.

Commissioner Abell: Yeah, that's fine, but, you know, I don't think, and I think we need a motion, I just think that this gentleman's got a problem—

President Kiefer: Right, no, I agree, I agree.

Commissioner Abell: — we've got, you know, we've got to do something for the problem.

President Kiefer: That's why I asked you if John needed to be involved at all.

Commissioner Abell: Yes.

President Kiefer: I mean, because I would like John to look at the integrity of that bridge itself, because, you know, I don't know if those pylons, or whatever are holding up with the way that's been washed out.

Joe Harrison, Jr.: This is just my thoughts with Mr. Jeffers and you all, require that Mr. Adler cease and desist any further work within the regulated drain, require Mr. Adler to cooperate with the county regarding work that he's already performed within the regulated drain, as far as providing us information on what he's done, and then, finally, require that the County Engineer inspect the site regarding the work that's been done and get with the County Surveyor on a plan to be presented to the Drainage Board at some future date. Does that make any sense?

President Kiefer: Yes. So—

Joe Harrison, Jr.: Is that okay, Mr. Jeffers?

Bill Jeffers: Yes.

Commissioner Melcher: So, we're not asking him to remove it yet?

Joe Harrison, Jr.: No.

Commissioner Melcher: Okay, that's what I wanted to know.

President Kiefer: That may be coming under the plan.

Commissioner Melcher: Well, it could, that's what I'm saying.

Joe Harrison, Jr.: No, basically, just stop, which I think Mr. Adler's—

Commissioner Melcher: That was a recommendation.

Bill Jeffers: Well, if anything needs to be removed or repaired, I will report to you at your next meeting on that.

Commissioner Abell: Okay.

President Kiefer: I would think that could be a part of the plan, for sure.

Joe Harrison, Jr.: I mean, yeah, I mean, the plan would certainly have that contained within it.

Commissioner Melcher: I just wanted it on the record—

Joe Harrison, Jr.: Sure.

Commissioner Melcher: —what we're trying to do here, because—

President Kiefer: Right, so, at this time, he's just going to be ceasing doing anymore work, and—

Joe Harrison, Jr.: Cooperate with the county, and have Mr. Stoll, the County Engineer, go out and inspect the site and work with the County Surveyor on a plan to analyze the situation.

President Kiefer: So, we need a motion to that effect.

Commissioner Melcher: But, before we go there, is this something the Engineer and yourself, Bill, can do? Or will we have to get a—

Bill Jeffers: Yes. The County Engineer and the County Surveyor can accomplish this, because we're familiar with the issue as it exists, as well as Mr. Wathen has been to the site with me and he works for the County Engineer. It is a situation of a bridge over a regulated drain, so both departments should be involved in the appropriate planning.

Commissioner Melcher: That's what I wanted to make sure. I thought we could do it in-house, but I wanted to make sure.

President Kiefer: Okay, so, is there a motion?

Commissioner Melcher: So moved.

Commissioner Abell: I'll second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes, and, Mr. Adler, I want you to know we want to help you.

Gene Adler: Okay.

Commissioner Abell: Okay, we're going to work this out for you. We're going to help you.

Gene Adler: Thank you.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes. Thank you everyone for bringing this to our attention, and hopefully we'll get the problem resolved, and it will end up with a happy resolution.

**(Motion approved 3-0.)**

Gene Adler: Thank you for your time.

Commissioner Abell: Thank you.

Commissioner Melcher: Thanks for waiting this long with us. We started at 1:00 though.

<b>Ditch Maintenance Claims</b>
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President Kiefer: Other business, claims?

Bill Jeffers: Yes, I have a packet of claims to be approved by the standard method. Everything is in order, everything is signed and ready to go to the Auditor.

Commissioner Melcher: Move to approve the claims.

Commissioner Abell: Second. Did they lock you in?

Gene Adler: Yeah, it's locked.

Madelyn Grayson: The other one's not.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

(Motion approved 3-0)

<b>Public Comment</b>
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President Kiefer: Is there any public comment? Is there anything else, Mr. Jeffers?

Bill Jeffers: No, sir.

President Kiefer: Okay, then move for an adjournment.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Okay, we are adjourned.

(The meeting was adjourned at 8:15 p.m.)

**Those in Attendance:**

Joe Kiefer  
Joe Harrison, Jr.  
Gene Adler

Stephen Melcher  
Bill Jeffers  
Others Unidentified

Marsha Abell  
Madelyn Grayson  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
JUNE 19, 2012**

The Vanderburgh County Drainage Board met in session this 19<sup>th</sup> day of June, 2012 at 6:55 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: Good evening. I would like to call to order the Drainage Board meeting for June 19, 2012.

**Pledge of Allegiance**

President Kiefer: If we could start with the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you.

**Approval of the June 5, 2012 Drainage Board Meeting Minutes**

President Kiefer: Is there a motion to approve the previous meetings minutes?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: Okay, great.

**Updated Report on Gene Adler's Request: Pond Flat Main**

President Kiefer: Update report on Gene Adler's request on Pond Flat.

Bill Jeffers: Is Mr. Adler in the audience tonight? I'll just pass out the updated report.

President Kiefer: Thank you, Mr. Jeffers. Do you want to summarize this?

Bill Jeffers: At the direction of the Drainage Board, which is the Commissioners, John Stoll and I went back out on last Wednesday and re-inspected the site together. My concerns remain the same as the list of concerns that I gave at the last meeting. So, I won't go over those any longer. I continue to think though that the cause of the embankment failure, which Mr. Adler wishes to fix, is caused by the velocity and duration of periodic high water flow through the Pond Flat Main in association with the weight of the overburden of soil that he has piled up into a high levee on his side, on the north side of the bank. The soil type, when it's periodically saturated by flood water, will not support the weight of the overburden at the

steepness of the slope that was created by his manmade levee. The soil type cannot support the weight of the rip rap that's applied to a steep slope such as that. The overwhelming majority of the rip rap that he wishes to apply, no, excuse me, the overwhelming majority of the rip rap that has been applied to that waterway at that location in association with the Mann Road bridge, or the side ditch, has sloughed off or washed into the bottom of the waterway, proving my concern. The concrete rubble which he wishes to armor the embankment with is not standard rip rap with sharp sides, rather it's comprised of large, broken slabs of flat sided concrete that will more rapidly slide down the slope when the slope, when the soil is wet. So, therefore, in considering all the information we've gathered, the County Surveyor continues to recommend against armoring the slopes with rip rap, and instead advises pursuing a plan that will accomplish repairing the waterway using county drainage funds. That would include removing the levee overburden northward and away from the bank to remove the excess weight, lay the north bank back at two and a half, a minimum of 2 ½ : 1 side slope, repair the damage to the south bank that was caused by the actions of the property owner and lay that bank back at a 3:1 side slope. That would widen the channel and lower the velocity, as well as take advantage of the existing bridge opening side slopes, which when they were built were laid back at 3:1 in anticipation of laying back the ditch slopes. Then armor the reshaped slopes with erosion control fabric and revegetate with grass. The distance between the two bridges at the site of concern is 550 feet. My estimate of the repair to the north bank only exceeds \$25,000, due to the excessive earth moving that would be required. If the work was accomplished that I recommend on both sides of the ditch, I believe the cost would exceed \$35,000. Our annual assessment for the entire six mile long ditch is \$10,000 a year. The annual maintenance expense for the entire ditch is \$5,500 a year, but with accumulated surpluses over the past several years of frugal spending, we anticipate a surplus at year's end of \$8,390, which is still only one third of repairing one side. So, the County Surveyor suggests Mr. Adler consider contributing to the cost of the work by absorbing the cost of moving the levee which he himself constructed. Then I go on to say what I would like to see that levee reshaped as. In the meantime, I would like for Mr. Adler to remove or cause to be removed the stockpile of concrete rubble outside of the 75 foot wide right-of-entry for Pond Flat Ditch and not to use it within the ditch. He can leave it on his property or do with it as he pleases, as long as it's not in our regulated drain. And, remain available to repair any damages, if during a wet season we start to see damages start to occur because of the actions he took with regard to moving dirt and applying rip rap, but in the meantime just leave things as they are until we come up with a plan. With regard to the side ditch that was dug back in the 1980's, which also has a large levee on the north side, I offer the following observations and suggestions, but I acknowledge that the County Engineer has jurisdiction over that side ditch, not the County Surveyor. Remove or significantly reduce an accumulation of earth, a peninsula, that exists between the northwest wing wall of the bridge and the discharge into the side ditch channel, this would widen the channel and lower the velocity further, and consider adding a wing wall to the northwest corner of the bridge to retain the resulting opening configuration between the side ditch and the bridge. That's my report, and I remain available for questions and consultation.

Commissioner Abell: Did you indicate that Mr. Adler is not here this evening?

Bill Jeffers: I didn't see him on the sign in sheet or in the audience.

Commissioner Abell: And he was aware we were going to discuss this, I assume?

Bill Jeffers: Well, only that I was directed to go out and make a report back to you.

President Kiefer: Perhaps, Joe can—

Joe Harrison, Jr.: My thought would be to, maybe I can send out a notice to him by certified mail, and request that he be ordered, a notice to appear, at the, maybe the 24<sup>th</sup> meeting when we'll have all three Commissioners, and we can address these issues. What I'll do, if that's okay, and the Drainage Board wants me to do that, I'll send him a copy of your report, your recommendations so he can see it, and ask that he attend that meeting. If not, the Drainage Board will take appropriate action at that time. Is that satisfactory?

Bill Jeffers: That sounds very appropriate.

President Kiefer: So, I ask for a motion to that effect.

Commissioner Abell: So moved.

Commissioner Melcher: I second the motion. I'm okay with okaying Bill's report. So, I would rather, I think we need to...I'm just asking. I think we should vote on his report, saying we okay his report. That might give the letter a little stronger message when we send it, saying the Commissioners—

Joe Harrison, Jr.: Have accepted the report.

Commissioner Melcher: —have accepted the report, and on the 24<sup>th</sup> you could have time to come in.

President Kiefer: Commissioner Abell, would you make a motion to that effect and include, the same thing, except including—

Commissioner Melcher: Well, I think he needs to know that we're accepting this.

Commissioner Abell: Do you want to do these two separate?

Commissioner Melcher: So, I'll make the motion that we accept the Surveyor's—

Commissioner Abell: Let me withdraw my motion.

Commissioner Melcher: Okay, I'm sorry.

Commissioner Abell: And, you withdraw your second.

Commissioner Melcher: I withdraw mine. So, I'll make the motion then that we accept the Surveyor's report.

Commissioner Abell: I'll second that.

President Abell: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Commissioner Melcher: Now, make your motion.

Commissioner Abell: Now, I would move that we have the County Attorney send the appropriate letter to Mr. Adler regarding this situation.

Joe Harrison, Jr.: What I'll do is notice him to appear at the Drainage Board meeting on the 24<sup>th</sup> of July to address the report that was approved by the Commission, by the Drainage Board, and to see how he's going to comply with the same.

President Kiefer: Okay, so that's—

Commissioner Abell: That's my motion.

President Kiefer: Steve, will you second that?

Commissioner Melcher: Second.

President Kiefer: Okay. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: Okay.

Bill Jeffers: Before we move on, I would like to say, that I've known Gene Adler since 1981 when I started working for the County Surveyor's office, and all through the 80's when we were doing the work out there on the bridges and so forth in that part of the county, and I would like to say that I don't think he did anything intentionally that he didn't think would work to his benefit and not harm the county in any way. He did the same thing on the ditch, on our ditch here, which passes through his property, he did the very same thing that he would have done on any private drain on his farm. It may have worked for him in an application in a smaller ditch. So, I'm not in any way implying that he did anything to harm the county or harm the public.



It's simply just something that I don't think would work, and has proven not to work in applications on these large ditches in that kind of soil.

President Kiefer: Okay, thank you.

<b>Chapman Drainage Easement Encroachment Agreement</b>
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President Kiefer: I guess, now, Sergeant Randy Chapman's easement encroachment agreement.

Bill Jeffers: Yes, Mr., or Sergeant Chapman is the applicant, along with his wife on a piece of property they own at their home in Wynnfield Subdivision on a large lake off Green River Road at Kansas Road. He has a target date of July 4<sup>th</sup> when his family will arrive for a celebration, he has that target date for the completion of a deck which he initiated without knowledge that he needed waivers from various utilities, because it did cross into an easement, which is also a drainage easement. Now, he's got those letters down at the Area Plan Commission from all of the other utilities okaying the location of the deck. I will tell you that that lake is a huge borrow pit that was used to fill all of that residential property, and it's way larger than any storm from that subdivision will ever fill to flood stage. The only time it's ever flooded, and then it never got into a house, it just got up over the emergency spillway, was when a log, during all of that flooding we had a log jammed into the outlet pipe and it went over the emergency spillway. So, I have no problem whatsoever, he's asking for tentative approval tonight, because your next meeting is July 3<sup>rd</sup>, he would like to have the deck finished and painted. In front of Joe Harrison, Jr. is his application, which is lacking a check for the cost of the recording, and it lacks a certificate of insurance to my knowledge. So, the County Surveyor, at this time would recommend approval, tentative approval, which would become fully effective when your attorney confirms that all pertinent documents and attachments are in hand, in order and ready for recordation.

Joe Harrison, Jr.: I have no problem with that. I spoke to Randy Chapman today, and he also faxed me a letter from Vectren as well. I don't know if you received that, but Vectren didn't have any utilities in the easement in question, they said they have no objection.

Bill Jeffers: I saw a copy of that by e-mail.

Joe Harrison, Jr.: He's working on the certificate of insurance, I just don't think, he couldn't get it resolved quickly enough today. So, I don't have any problem with tentative approval of the drainage easement encroachment agreement. Once the other documentation is in order, it will be recorded along with, it will be recorded as soon as he gives us the money and insurance certificate.

Bill Jeffers: Okay, we would just be doing this as an accommodation to him to move forward and be able to entertain his family when they arrive.

Commissioner Melcher: I'll move to accept the Surveyor's request.

Commissioner Abell: I'll second the motion.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: Okay, so approved.

<b>Bullard Complaint: Sunrise Drive &amp; Old State Road</b>
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President Kiefer: Next, to Bill's happiness, Bullard's complaint of flooding at Sunrise and Old State Road.

Bill Jeffers: Yes, I was not aware that this was intended to be on the Drainage Board agenda for this evening, but earlier today I received an e-mail from our attorney asking some questions that lead me to believe that it might appear either in the Commissioners meeting or subsequent to the Commissioners meeting. I responded to our attorney, Mr. Harrison, with some details of my knowledge of the situation. But, other than that I was unprepared, because there was no communication to me that it would, in fact, be on our agenda.

President Kiefer: Perhaps, John Stoll might be able to make some commentary on it.

John Stoll: This first came up last week when my office got a phone call about a problem with some obstructions in the culvert underneath Sunrise on the west side of Old State. Initially the call came in to Mike Wathen. When he heard there was an obstruction with some tree limbs, he had referred it to the Highway Department, the Highway Department then asked us to go out and take a look at, make some recommendations. That lead to Pat Seib of my office and Scott Wichser of the Highway Department going out to the site, I think it was last Tuesday. The following day the Highway Department crews were out there removing some tree limbs and other debris that apparently was part of the obstruction of the pipe that was apparently causing the drainage problems. Since then we have learned that there are some complaints regarding houses being flooded out there. So, we've been trying to piece together just, like Bill said, just find out what data is out there and available about the situation (tape flip) investigations to try and find out what the existing pipe sizes are, whether there's any records of approvals of those pipe installations, just trying to piece together what all's out there. If the existing pipes are adequate, if they're not, what our options are for changes, and just basically trying to gather all the appropriate data to figure out what might be an appropriate solution for the problems.

President Kiefer: Mr. Jeffers, obviously, you were called in late on this, would you be willing to take a look at this? Maybe we can give you some time to be able to go out and visit the site, or maybe give some recommendations as well.

John Stoll: Bill and I stopped by the site last week.

President Kiefer: Oh, Bill stopped by the site, okay.

Bill Jeffers: As I indicated in my communication to Mr. Harrison, I lived within a half a mile of this site, and the creek flowed within eyesight of my kitchen window from 1981 until 2002. I'm fully aware of the problems at this particular house. I've seen it after or during, it's been flooded at least three times in the time that I've worked for the county. I understand in the last, since the ownership by the current owner, it's flooded two other times. I've been called by people who either lived there or were in the process of thinking about buying it and gave them certain pieces of advice about it. I have my own opinion of what's causing the flooding, after detailed examination on more than one occasion. The last of which was last Wednesday with Mr. Stoll. I think I agree with his assessment, as well as the assessment of some of the people from his office that have been sent out there. But I'm not exactly sure what my role would be, because I feel that it's solely a Highway Department issue. I was more or less dumbfounded as to why it comes to the Drainage Board.

Commissioner Abell: Well, it came to the Drainage Board because I was called out there yesterday, Mr. Jeffers, and I spent my afternoon out there, and I did that, and as President of this County Commissioners, I'm entitled to do that. That's why it came to the Drainage Board.

Bill Jeffers: Would you like to give me any sort of indication or direction as County Surveyor what I should do about it? Or, this is just a forum for airing the concern?

President Kiefer: I mean, I think we, obviously—

Bill Jeffers: Rather than the Commissioners meeting where it would traditionally have landed.

President Kiefer: Well, I mean, it's, you know, so what you're saying is you would have no recommendations on this for any resolution to any concerns?

Bill Jeffers: Well, what really troubles me is that since I've worked for the county, beginning in 1981, the Surveyor's office either operated the bridge department, or after 1986 worked in conjunction with the County Engineer who operated the Bridge Fund in a cooperative manner in which communications were sent back and forth between the various departments, including the Highway Department. It seems, in the last year or so, our office at least, and possibly the County Engineer's office as well has been disconnected from the line of communication in this regard, except when a problem pops up that the Highway Department apparently can't handle. In other words, we're told basically don't interfere, and then when a problem comes up that's beyond the scope of handling, then the property owner is told to contact us. Which this man did.

President Kiefer: Well, I would be interested to see, John, obviously gave his analysis, you know, his summary in an e-mail that came to us at 2:00 this afternoon. I would be interested to get your opinion to see if you concur with his solution to this, and we could take this under advisement and relook at this, you know, at the next meeting.

Bill Jeffers: Well, Mr. Stoll and I are in almost daily contact by e-mail, and we have always worked together, and I hope to continue to do that until December 31<sup>st</sup>.

President Kiefer: Okay, thank you very much. I guess, since there's some residents here....he sent, Joe told me he sent him some e-mail on this. Since there's residents here, maybe they might like to make a few comments. Okay, just state your name and record and address. Name for the record.

Roger Bullard: I'm Roger Bullard. We own the home on the corner of 41 East Sunrise Drive, on the corner of Old State and Sunrise. We are the home that floods. Now, you have to understand, ladies and gentlemen, my college degree is in food and beverage, so this is all uncharted water for me. Okay, literally.

President Kiefer: No pun intended.

Roger Bullard: Yeah, no pun intended. It all started after the storms around last Memorial Day. We paid cash for our home. There was no bank loans or anything, so like we have no recourse to say, here you take this back, because of these problems. Then we turned around and we matched what we paid for it and invested that into what basically was an awful, ugly eyesore into a very beautiful home now. Everything is invested in this home. The first flooding happened in June of last year. At that time it was, we kind of, it came up in the garage at that time, and we kind of blamed it on, okay, they're still clearing up storm damage and there's trees in ditches and on houses. We had a tree on our house also, which destroyed our living room, and, once again, invested the money to have a whole new top, from the ceiling up rebuilt on our home. All of this thinking that we could insure our home. As of right now, our home is uninsurable. If a storm was to come through tomorrow we would lose everything. I have, and I believe, did you all get the copies that I submitted today of letters from Dr. Pogue and other neighbors?

Commissioner Abell: (Inaudible. Microphone not on.)

Roger Bullard: Three, I had three.

Commissioner Melcher: There's three.

Roger Bullard: Now, I do apologize, as I say, this is not, this is all foreign to me, but what I've gathered from the neighborhood, and I do have, and once again I apologize, one copy...may I approach and hand it to someone, please?

Commissioner Abell: Sure. I guess, (Inaudible. Microphone not on.)

Roger Bullard: Okay, that was Mr. Goebel's plan for that whole subdivision out there. It maps out the drainage. Our home has two driveways, one that goes out on Old State, and one that goes onto Sunrise. Mr. Tillman, who is here in the audience, has the home across Sunrise from us and has the same kind of a driveway situation. I agree that I believe that our driveway on Old State is part of the problem. I don't know exactly who put it in, the tunnel in the driveway. I do understand, and I believe that falls in with, I obtained counsel, actually retained Mr. Shively this morning as far as fraudulent, non-disclosures in the home when we purchased it. From what, in investigations through the neighborhood and talking to neighbors that have lived there 30 plus years, years ago, as you can see on the paper I just handed you, at the end of Sunrise what it was, was, it was basically like a canal through there, and it was a very pretty limestone walled bridge with lighting inset that you crossed over the canal onto Sunrise Drive. We're not asking for the wall and the pretty lights and all that to be back, or anything like that. At one point, and you have to understand, notes and things were being taped to my door and stuck in my mailbox up to 20

minutes before I left to come to this meeting. So, in the dimensions, what I have is, okay, our driveway drain is 42 inches in diameter round. Okay, the water comes from Dr. Pogue's property up above us, I'm not sure how that layout goes up above past his property, it comes through there and what it was meant to do was come through there and down under his bridge and then go through this canal, under Sunrise Drive and then onto a canal on the other side that leads to where it dropped off in the creek. As you can see in that paper, the subdivision behind us was also a part of that, and there is a drainage through there also that came to that creek and they both met there in that big opening. Ms. Abell, you were there and saw the opening I'm talking about. Somewhere along the line the original owners of 40, Mr. Tillman, that is your address 40? 40 West Sunrise, which is right across from us, had a pipe installed. Now, in my investigations, no one has been able to come up with where any permits or Council meetings or anything back, for many years, where this was ever approved for this pipe to be put in. If I could once more approach? It starts off, okay, through the ditch, it ends up going in, I'm sorry (Inaudible. Not at microphone.) It ends up going in a 76 by 60 rectangular (Inaudible. Not at microphone.) term for what that is.

Commissioner Abell: (Inaudible. Microphone not on.)

Roger Bullard: Thank you, Ma'am. That allowed it to flow under Sunrise Drive and then open to the—

Commissioner Abell: (Inaudible. Microphone not on.)

Roger Bullard: I'm sorry, should I go back to the....okay. That allows it to open then through the 76 by 60 rectangular box you see, into then another open canal ditch, which then ran it smoothly down to drop into the creek. Somewhere along the line, and like I said, no one can find permits or anywhere where this pipe was laid in there. It was a 48 inch pipe that was concreted at the opposite side of us on Sunrise Drive, concreted in and ran down in that ditch covered up, which interrupted the whole main thing Ed Goebel had designed as far as drainage. From what I'm gathering from neighbors that have been there 30 plus years, this, and right before I left the home, or house to come here, I had a phone call, and the original owners, and you'll have to forgive my looking through paperwork here, the original owners did not like that canal and ditch beside their home. So, somehow, and this is what we're trying to figure out, they had this 48 inch pipe put in and the ground covered to make them a lawn to Old State Road, instead of having a ditch. So, in kind of simple terms, I guess, it's like, I'm going to use water as an example, it's kind of like you've got a funnel and you're trying to dump five gallons of water through a funnel very fast and for it to all go through at the same time. It just, it physically can't happen.

President Kiefer: Yeah, I think I understand what your situation is. I know the other Commissioners do. You've been out there.

Commissioner Abell: I've been out there.

President Kiefer: John, so, if they removed, per your e-mail, you state that if they would remove the 42 inch driveway culvert and the 48 inch pipe that would alleviate the problem, but then their driveway would have to be moved to a different location then.

Commissioner Abell: Not necessarily.

Roger Bullard: No, we do have two driveways.

Commissioner Abell: They could vacate one of them.

President Kiefer: Oh, would you be willing to vacate the one driveway?

Roger Bullard: I am more than willing if it will stop our home from flooding.

President Kiefer: John, can you check out—

Roger Bullard: I mean, tomorrow, you know.

President Kiefer: — and see what it would cost just to remove those culverts? Maybe that might be a cheaper alternative.

John Stoll: There's two different driveways out there. There's one on Mr. Bullard's property, but there's also one on the north side, the northwest corner—

Roger Bullard: Mr. Tillman.

John Stoll: — and I don't believe anybody has discussed removing his driveway, as far as replacing that with an open ditch. I know when Pat Seib and Scott Wichser met out at Mr. Bullard's property last week, that was one of the things that was discussed as far as having the county crews remove that pipe at some future date once, I'm not sure if you had to remove something in the vicinity of that pipe or something.

Roger Bullard: Oh, we've had trees pulled out, when the county came out to remove the obstructions, which we thought might have been causing this, they pulled out two fairly large trees out of there and left one.

President Kiefer: So, basically, why don't we do this, John, why don't you get with him and then maybe the other neighbor that's involved and let's see what the low cost alternative is. You know, obviously, removing that 42 inch driveway culvert would make a big difference.

John Stoll: That would help. The biggest issue I see with the northwest corner on the north side opposite of Mr. Bullard is if the existing 48 inch pipe is removed from there, there's going to be a very large ditch. I'm going to guess, like I said in my e-mail, I would suspect it would range from say six feet to eight feet deep, somewhere in that vicinity by the time you opened it all up.

Roger Bullard: May I say, please, that I have the exact same deep ditch in front of my home. I mean, it's absolutely beautiful. We've done rock gardens around it. We've cleaned it, when we bought the home it was completely grown up, full of trash, trees. We did, me and Hootie ourselves cleaned the whole ditch out. It is now rocked, it is absolutely beautiful with rock flower gardens. There's no longer snakes climbing up our house or in our patio. As far as the ditch, you can leave it an ugly eyesore ditch or you can be a responsible property owner and take care of that.

President Kiefer: Why don't you let John, you know—

Roger Bullard: I'm sorry.

President Kiefer: No, no, no, what I was going to say is maybe he can meet with you outside of this meeting and meet with the other neighbor and see if we can come up with a solution that might not be really too expensive, and, you know, like moving that culvert, you know. Then, perhaps, you know, one of the other neighbors here, I know we have some other people in the audience, maybe they could make a few comments as well.

Roger Bullard: Okay. I would also like to just submit these. This is what I experienced as far as how high it gets in my garage. It has been in our kitchen, our living room. I wish, I do have my camera with me, I wish I would have had pictures printed out to show you what we've done to the inside of our home. It's absolutely gorgeous, but it floods.

President Kiefer: Right.

Roger Bullard: Then on a personal, you know, that goes back to why we had to seek counsel, because, of course, none of this was disclosed to us.

President Kiefer: Right, right, and I know, I know there's, you know, obviously, this appears to be the developer, or whoever built the property did this, but, you know, what I think we need to do, you know, what I would like to do tonight is ask John to work with you and the other neighbor and then perhaps, yet we still have a few other people that would like to talk.

Roger Bullard: Yes, okay. I thank you for your time.

President Kiefer: Thank you.

Commissioner Abell: I think Mr. Tillman is here also, the gentleman who lives directly across from him.

President Kiefer: Yes. Your name and address for the record.

Hootie Bullard: My name is Hootie Bullard, 41 East Sunrise Drive. My father helped build the home at 41 East Sunrise Drive along with every other home on that street. My daddy was one of the finest brick and stone masons in this area. I knew Ed Goebel personally through my family. The man who designed what you saw there on that paper. The canal system that he drew out worked for many, many years perfectly, to my knowledge. If it were to be put back the way that he had designed it, it will work again. I am sure of it.

President Kiefer: Okay.

Hootie Bullard: The money that has bought this house, I paid cash money for my home, took out of my trust fund. The money to repair my roof of my house, which was supposed to be the home I was going to retire in. I moved back to Evansville two years ago to retire in my hometown, and live in the first home that my daddy every did construction work in. I was able to do that, but now, because of someone else, years ago taking it upon themselves—

President Kiefer: Well, I think that's to Mr. Jeffers' point out in the earlier ditch issue.

Hootie Bullard: Absolutely, but Mr. Jeffers does not live on my property, Mr. Kiefer. I'm sorry.

President Kiefer: Yeah, I know, but my point—

Hootie Bullard: He did not put out this kind of money. I will be financially ruined if I cannot sell my home. I have invested almost \$200,000 cash—

President Kiefer: Okay.

Hootie Bullard: —to put the top of the line, high tech roof on, electrical, everything. I'm fixing to go totally solar on my home. Not now, I can't afford to even get insurance if it was available. I don't even know if it's available. I will have nothing. Do you see what I'm saying?

President Kiefer: Yeah, and—

Hootie Bullard: Because someone else covered up what was supposed to be there. They took it on themselves to do this 30 some years ago. It is wrong. Extract it like a tooth. Take it away. Put it back to what Mr. Goebel had originally designed that worked. Those people wanted a lawn. I want a home to retire in, in my hometown, around my family, my friends and neighbors. That's what I came back to Evansville for. I must have loved this town a lot to be back here. I've been in some wonderful places. All I'm asking is don't let me lose everything I've worked hard for, please, and what my daddy built, please, and Mr. Goebel. Please save what we have. Please, that's all, I'm pleading with you.

President Kiefer: Okay, thank you.

Hootie Bullard: This means my life.

President Kiefer: No, I understand, and thank you for your comments. I do appreciate it.

Hootie Bullard: There's still a tree under there.

President Kiefer: Yeah.

Hootie Bullard: They took two, not limbs, not twigs, not junk. Trees as wide as this room, trees, and there's still one down there.

President Kiefer: I understand. Okay, thank you very much.

Hootie Bullard: Thank you for your time, sir.

President Kiefer: I appreciate it.

Hootie Bullard: I'm pleading with you, please.

President Kiefer: Okay, was there somebody else that—

Pat Rafferty: Good evening. I'm Pat Rafferty. I live at 41 West Sunrise Drive. I'm the very last house on Sunrise Drive on the north side. The flooding does not affect my home, but my children, for years, when it rained could not go to the bus stop without me taking them down there because the road flooded over, and my children were forced to walk through standing water six to 12 inches deep across Sunrise Drive, during a rainstorm, to get a bus. So, on a lot of mornings I would take them to school



rather than let them ride the bus because of the flooding issues. Years ago, years ago our neighbors tried to get something done, and we were repeatedly told that the Commission was going to do something. In 2004, 2007, because I've lived in my house 31 years. It will be 32 in April, and I've watched this, and that ditch has become overgrown from up the way down to the house at 40 East Sunrise Drive. I do not believe the current owners of Sunrise Drive, 40 East was aware of the fact that there is too small a pipe underneath their property right there. They had no knowledge of this. I think they were also shammed when they bought their home. But, I tried to warn people over the years about the flooding issue, keep that ditch cleaned out, if you don't your house is definitely going to get flooded because of the debris coming down through there. I have watched trees, there is a gas line that goes underneath, or through the ditch that's exposed, approximately 18 inches higher, maybe two feet higher off the bottom of the ditch that goes through the ditch. It's openly exposed. All it takes is a big strong tree coming through there, which we've had several to break that gas line and we would have one heck of an explosion—

President Kiefer: Have you talked to Vectren about that gas line?

Roger Bullard: I have.

President Kiefer: Okay.

Pat Rafferty: I haven't—

Roger Bullard: With no response.

Pat Rafferty: You know, it's like talking to the wind. My neighbor next door has a gas line exposed, that high, in their yard, and right next to my property line and Vectren wouldn't do anything about it because it didn't leak. So, God help us if something happens that that gas line springs a leak or that someone hits it. But, anyway, back to the flooding, but the Commission wrote a letter to the neighbors and said that they were going to do something in 2007, nothing ever happened. It is now 2012.

Commissioner Melcher: Have you got a copy of that letter?

Roger Bullard: I do.

Commissioner Melcher: We would like to have a copy. During this time, since you've been there the longest, did you keep any kind of records of the rainfall?

Pat Rafferty: No, I did not.

Commissioner Melcher: Because that always seems to help us know what's going on. That's what we keep asking people, when it happens keep a record of how much is going on.

Pat Rafferty: Well, since I live at the top of the hill and the flooding didn't affect me except that the water coming off the hill managed to find its way into my crawl space, because I had a small river coming across my yard. Because my drainage ditch above my house became overgrown because I live next door to a 40 acre woods that keep Evansville Beautiful would just love, because no one has gone in there and weeded that thing out. We cleared a spot, at our own expense, our own time to clear

back from here to you on the side of our property that's not ours to get rid of the weeds, the dirt, the debris and the mosquitos that love to live in that garbage.

President Kiefer: I appreciate all of you bringing this to our attention. I will tell you, you're on our radar screen now.

Pat Rafferty: We certainly hope that you can do something about this. We've tried off and on for years and years to get something done. Like I say, I just gave up, and I just took my children to school, but there are other children in our neighborhood that are going to have the same problem unless something is done.

President Kiefer: Well, I appreciate that. Thank you very much.

Pat Rafferty: Their home had been flooded and I've tried to warn, and it's nothing they can do about it, but they have cleaned out their ditch.

Roger Bullard: May I say please that there is an (Inaudible. Not at microphone.)

President Kiefer: Okay, thank you.

Gene Gott: Good evening. Gene Gott, 31 West Sunrise.

President Kiefer: Okay.

Gene Gott: It's kind of a mathematical problem, I think. You wondered what the Surveyor could do? We need to know how many acre feet of water are being shed into that area that's being drained, and whether it's the County Engineer or the Surveyor's Department, I don't know, one of them can certainly give you that information. How much watershed is going to come into that area? And how big of a pipe does it need to be?

President Kiefer: Or we can do the open ditch, you know.

Gene Gott: Or the open ditch.

President Kiefer: Yeah.

Gene Gott: I think, you asked what his role could be, there you go.

President Kiefer: Okay, I appreciate that. I thank everybody for being here and expressing themselves. Like I said, you're on our radar, and John knows what he needs to do to communicate with the various peoples, and we're going to try to address this. So, Mr. Jeffers, did you have anything else you wanted to say before, because what I would like to do is put this back on for the 24<sup>th</sup> of July and try to have an action at that point.

Bill Jeffers: Our office remains available to work with John Stoll and anyone else who cares to communicate with us, but the only other thing I have to say with regard to Gene Gott's comment, I can tell you how many acres of watershed is in there. It's bounded on the west by Darmstadt Road, down to Highland School—

President Kiefer: Yes.

Bill Jeffers: – Highland School drains into it, Campground Road, and then Old State along the east. It's many acres of watershed. As I've said, I've lived there and looked at that stream in flood stage in every instance of flooding, especially 1983, 1996 were the two worst, and again, I believe it was 2006, I had already moved, but we moved from there in 2002, there is no pipe on earth that you can fit into that ditch, including the box culvert that exists for Sunrise Drive. There is no pipe that you can fit into that ditch, and get cover on the pipe, that's going to prevent flooding during a 100 year event, of which we've had two or three since I lived up there.

President Kiefer: Is all of this ditch area in an easement?

Bill Jeffers: And the houses–

President Kiefer: Or is it outside of easement?

Bill Jeffers: I have no idea.

President Kiefer: Yeah, okay.

Bill Jeffers: As I said–

President Kiefer: That's what we'll have to check on.

Bill Jeffers: –well, you can find out from looking at the highway plans that I transferred to the Highway Department and to the Highway Engineer. When we got a full time engineer who took over the bridge department and took over the highways from the County Surveyor. I transferred those documents over in the late 80's or early 90's, and it was a highway plan from the State Highway Department, who built Old State Road. But, what I'm saying is basically there is nothing you will ever do as long as a house on the west side of Old State Road is lower than the crown of Old State Road pavement, because there will come a rain that will try to top the pavement, and when it can't top the pavement it's going to go through the lower elevation and into the garage of that house.

President Kiefer: Okay, thank you.

Bill Jeffers: Yes.

President Kiefer: If it's okay, we can move on to ditch maintenance claims.

Commissioner Melcher: Well, wait a minute here, before we go, what we have is actually nothing from the Commissioners.

Roger Bullard: Right, I didn't say, what I meant, she was referencing–

Commissioner Melcher: Okay, it's actually April 9, 2004, from somebody–

Roger Bullard: From Ms. Ciepley and Shirley in the neighborhood, they had did a petition.

Commissioner Melcher: Then April 3, 2007 you sent it to Mark Taylor of the County Garage. Then over here on April 23, 2007, I guess this is another one that was sent to Mark Taylor from Shirley.

Roger Bullard: Well, one was, the way I understood it, the first letter in 2004 went along with a petition.

Commissioner Melcher: Well, it says the petition is attached, but that came from the residents.

Roger Bullard: Right, from the residents to Mr. Taylor, I believe.

Commissioner Melcher: Right.

Roger Bullard: Then, his response was three years later with the following letter.

Commissioner Melcher: So, you're saying it took three years to get this letter?

Roger Bullard: Yes.

Commissioner Melcher: Okay. Well, I just want it on the record that—

President Kiefer: Sure, that it wasn't the Commissioners that made a commitment.

Commissioner Melcher: — that it wasn't the Commissioners.

Roger Bullard: No, no, no, I'm sorry if I didn't make that clear.

Commissioner Melcher: No, it's just that—

Roger Bullard: I wasn't sure.

Commissioner Melcher: — we want to make sure, we have to follow up on past Commissioners like people are going to have to follow up on us someday.

President Kiefer: See, the problem as I see this thing, this is not something that the county has done to create a problem for you.

Roger Bullard: Oh, of course not.

President Kiefer: The county did not create this problem. This is a problem that was created by homeowners and people that have lived there. You're asking the county to fix the problem, and what I'm saying is that we're going to ask John Stoll, the County Engineer, to work with Mr. Jeffers, the County Surveyor, and maybe we can come up with a solution of removing these culverts and opening up that ditch and letting the water flow free again. But, there's a little work involved in that, and, so, there's no action that we can take tonight.

Roger Bullard: Right.

President Kiefer: But, we can see what we can do at the next meeting.

Roger Bullard: I'm sorry, sir, I don't know your name. I apologize.

Bill Jeffers: Bill Jeffers.

Roger Bullard: Bill Jeffers, and what he just said, I do agree, and I have been told by several neighbors that the pipe started it all. Now, at one point in time the level of Old State Road was repaved and raised. Then that just kind of—

President Kiefer: Compounded the problem.

Roger Bullard: — added to it, and then it became this big thing that we have.

President Kiefer: Right.

Roger Bullard: My problem on a personal level here, and I assume that's with Mr. Shively, while we're waiting on decisions and trying to figure out what we can do about this, I still am sitting with a home that when it does break lose in this drought and rain, we're going to flood.

President Kiefer: Well, hopefully, you have, I don't know—

Roger Bullard: We cannot obtain home insurance.

President Kiefer: Or flood insurance, okay.

Roger Bullard: I'm sorry, sir, the neighbors right next to us are a young couple in their 20's with three children. This is their first home they bought. They have been kicked now off two insurance policies.

President Kiefer: Well, I would recommend that, you know, that you work with your neighbors, especially the other neighbor who is not here tonight, that his property is going to need to be have something done with his property.

Roger Bullard: Now, Mr. Tillman is here.

President Kiefer: Oh, okay.

Roger Bullard: Right back here in the back.

President Kiefer: Well, okay. So, Mr. Tillman, then are you willing to work with the County Engineer, you know, whether it's removing the culvert—

Mr. Tillman: (Inaudible. Not at microphone.)

President Kiefer: —okay, we've got people here, you know.

Commissioner Melcher: Well, I think it takes all three.

President Kiefer: Exactly.

Commissioner Melcher: I think Bill, and John and Mike all need to work together on this, because if the county does end up doing something, everybody needs to know what the game plan is, if there is going to be a game plan.

President Kiefer: Exactly. But, the point I was trying to make is the exact point our Surveyor made earlier, is when people in private, I mean, people come into these ditches and start doing things on their own, then you're going to have problems. You

know, this is what we've seen earlier tonight, and now this is what we're seeing here again.

Roger Bullard: Right. The neighbors in the neighborhood have pretty much said when, you know, those that lived there at the time, you know, when you see big machinery and things being done in the ditch, you don't stop and question it, you know, who are you? Do you have permission to do that? What are doing? You know, so, to the naked eye it just looked like maybe the county or Highway Department was doing something.

President Kiefer: Right.

Roger Bullard: You know, no one was aware that these people maybe had a little bit of money—

President Kiefer: Yeah.

Roger Bullard: – and didn't want a ditch.

President Kiefer: I think that, you know, you've got people here now on the same page with you to try to work together with you, Mr. Tillman and others. So, there's nothing we can do tonight.

Roger Bullard: Right.

President Kiefer: We have to have, allow the Surveyor and the County Engineer to formulate the most viable plan.

Roger Bullard: I basically just want, ladies and gentlemen, for you to understand our urgency.

President Kiefer: I understand it.

Roger Bullard: Because we stand to lose everything.

President Kiefer: No, your urgency is expressed.

Roger Bullard: Yes.

President Kiefer: And I do appreciate you coming tonight.

Roger Bullard: Okay, and I thank you for listening. I really do.

President Kiefer: Yeah, and thank you very much. Don't think that we haven't heard what you're trying to express.

Commissioner Melcher: Mike, we're going to go ahead and send you a copy of these letters since one of them came out of your department.

Mike Duckworth: I have them.

Commissioner Melcher: Okay.

**Approval of Ditch Maintenance Claims**

President Kiefer: Okay, ditch maintenance claims.

Bill Jeffers: Oh, the claims. I'm sorry, the claims are on Madelyn's desk there. Small stack of claims, ditch work that's been completed under contract with the county Drainage Board, it's been inspected by the County Surveyor's staff with a recommendation to approve the claims and pay them.

Commissioner Melcher: So moved.

President Kiefer: Is there a second?

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

**Public Comment**

President Kiefer: Okay, I don't know, is there further public comment? I think we had everybody that wanted to talk, talk.

Eldon Maasberg: I'll pass this time.

President Kiefer: Okay, thank you. I was looking at you and realizing it's almost 8:00. So, I thought--

Bill Jeffers: I'll put a gag order on Eldon tonight.

**Other Business**

President Kiefer: Okay, any other business?

Bill Jeffers: Not from our office.

President Kiefer: Commissioners? Okay, motion to adjourn?

Commissioner Melcher: So moved.

President Kiefer: Okay, we are adjourned.

(The meeting was adjourned at 7:51 p.m.)

**Those in Attendance:**

Joe Kiefer  
Bill Jeffers  
John Stoll  
Hootie Bullard  
Mr. Tillman  
Members of Media

Stephen Melcher  
Joe Harrison, Jr.  
Mike Duckworth  
Pat Rafferty  
Eldon Maasberg

Marsha Abell  
Madelyn Grayson  
Roger Bullard  
Gene Gott  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)



**VANDEBURGH COUNTY  
DRAINAGE BOARD  
JULY 3, 2012**

The Vanderburgh County Drainage Board met in session this 3<sup>rd</sup> day of July, 2012 at 5:32 p.m. in room 301 of the Civic Center Complex with Vice President Stephen Melcher presiding.

**Call to Order**

Commissioner Melcher: We'll go ahead and open up the Vanderburgh County Drainage Board. It's about 5:33, something like that.

**Approval of the June 19, 2012 Drainage Board Meeting Minutes**

Commissioner Melcher: So, we need to make a motion to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

Commissioner Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Melcher: Aye.

**(Motion approved 2-0)**

**The Stables: Preliminary Drainage Plan**

Commissioner Melcher: Drainage plans, Bill?

Bill Jeffers: Yes, the only drainage plan we have tonight is The Stables, a preliminary plan for a development on South Green River Road. It's a 16 and a half acre site on the east side of Green River Road between Pollack and I-164. The site includes what will be platted as The Stables, an R-1 residential development and The Stables PUD, the first plat of which would go to Area Plan Commission, Thursday, July 12<sup>th</sup>. The project is operated by Chris Combs who is in the audience, and the drainage plan is designed by Keith Poff from Sitecon who is also in the audience. Based on the projects position as the closest land development to the receiving stream, Aiken Ditch, which stream then conveys through the Knight Township levee and off into the Ohio River, the County Surveyor supports the undetained discharge into Aiken Ditch ponding system so that the storm water can be pumped through the K-1 pump station ahead of the peak runoff that's anticipated from the farther reaches of the watershed. In other words, the peak from The Stables occurs in about 35 minutes, well ahead of the peak from the remaining watershed, which is routed through huge detention areas in Indian Woods and other developments, and arrives hours after the discharge from The Stables. The County Surveyor has reviewed the plan, finds it to be in substantial conformance with the code and approves the preliminary plan for The Stables and The Stables PUD.

Commissioner Melcher: Any questions? Any questions in the audience, anybody? I'll entertain a motion.

Commissioner Abell: So moved.

Commissioner Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Melcher: Aye. Thank you.

**(Motion approved 2-0)**

<b>Fulkerson Encroachment Agreements</b>
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Bill Jeffers: Okay, in other business we have the Fulkerson's encroachment agreement, which is in front of you on the desk. It has been held by Madelyn Grayson in the Auditor's office, along with the money for recording of the document. It's my understanding the document has been reviewed by your attorney and found to be in acceptable legal form for recording. This is essentially the same as the one we approved at our last meeting, in the same lake, allowing for a deck extending from the home down to the water for the enjoyment of the lake. It does not interfere with drainage, and the encroachment agreement protects the county against loss or damages for the construction and use of the platform, and allows you to order the removal of the platform should it ever become a hazard or an obstruction to drainage. The County Surveyor recommends approval of the encroachment agreement so that it may be recorded.

Commissioner Melcher: Any questions?

Commissioner Abell: So moved.

Commissioner Melcher: I'll second it. Is there any other discussion from the public? Seeing none, all in favor say aye.

Commissioner Abell: Aye.

Commissioner Melcher: Aye. Opposed? Thank you.

**(Motion approved 2-0)**

<b>Huang-Huston Obstruction Petition Update</b>
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Bill Jeffers: The County Surveyor has a lingering issue with a citizen who filed a petition asking for the removal of an alleged drainage obstruction, and due to technicalities and the inability of the respondent to afford the remedy that was proposed, action was suspended last year. Now the petitioner wishes for action to be taken, and there are other extenuating circumstances, physical circumstances that complicate the issue. I am asking for your permission to consult with the attorney for one half hour to bring him up to speed with what occurred under the previous administration and the previous County Attorney, so that we can move forward in an expeditious and appropriate way.

Commissioner Abell: I don't have any problem with that.

Commissioner Melcher: Okay. Do you want to make the motion then, Marsha?

Commissioner Abell: Do we have to make a motion?

Joe Harrison, Jr.: No, that's fine. No, I'll do it.

Commissioner Melcher: Okay.

Bill Jeffers: Well, I didn't know if I—

Joe Harrison, Jr.: No, that's fine.

Bill Jeffers: — you know, how your attorney is paid, and I would be occupying his time for a half hour or so.

Commissioner Abell: We are very happy to have him help you.

Bill Jeffers: Okay. That's all of the business that the County Surveyor has to bring before the Board tonight.

<b>Public Comment</b>
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Commissioner Melcher: Thank you. Any other business to come before the Board this evening from the audience? Seeing none. I would entertain a motion to adjourn.

Commissioner Abell: So moved.

Commissioner Melcher: Second. We're adjourned. Thank you.

(The meeting was adjourned at 5:37 p.m.)

**Those in Attendance:**

Stephen Melcher  
Joe Harrison, Jr.  
Members of Media

Marsha Abell  
Madelyn Grayson

Bill Jeffers  
Others Unidentified

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
JULY 24, 2012**

The Vanderburgh County Drainage Board met in session this 24<sup>th</sup> day of July, 2012 at 6:26 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for Tuesday, July 24, 2012.

**Pledge of Allegiance**

President Kiefer: Mr. Jeffers, if you could lead us in the Pledge, I would appreciate it.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you very much, sir.

**Approval of the July 3, 2012 Drainage Board Meeting Minutes**

President Kiefer: I would like to ask to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

**Wynnfield Subdivision: Section 6: Final Drainage Plan**

President Kiefer: Okay, drainage plans, Mr. Jeffers.

Bill Jeffers: Okay, the first one is Wynnfield Subdivision, Section 6, a final drainage plan. You acted on some sidewalks and roadways earlier in your Commissioners meeting. This is the drainage plan for the remaining section, south of Windham Drive, to the south line of the development. The County Surveyor has reviewed the drainage plan submitted by Glen Merritt from Cash Waggoner and Associates and finds them to be in compliance with the drainage code and recommends approval of the final plan for Wynnfield Subdivision, Section 6. Any questions could be addressed to Mr. Merritt who is in the audience if needed.

President Kiefer: Okay, are there any questions? Okay, is there a motion to approve then the drainage plan for Wynnfield Subdivision, Section 6, final drainage plan?

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

Commissioner Abell: I'll second.

President Abell: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

<b>High Pressure Sewer Line: Boring Under Rexing Creek</b>
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President Kiefer: Next is the high pressure sewer line.

Bill Jeffers: Yes, this is a high pressure sewer line to be bored under Rexing Creek, a regulated drain in northern Vanderburgh County. The sewer line will service the pump station built with TIF funds for the Gene Hahn project at 41 and I-64. This is a formality, required by State statute for the Drainage Board to approve crossings of regulated drains. The plans were presented from Bernardin Lochmueller Associates of Evansville via John Stoll, the County Engineer, and they do have the recommendation of the County Surveyor for approval.

President Kiefer: Okay, I'm going to abstain from this vote.

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

Commissioner Melcher: I'll second it.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Abstain.

**(Motion approved 2-0. Commissioner Kiefer abstained.)**

**Update on Adler Drainage Concern: Bixler Road: Pond Flat Main Ditch**

Bill Jeffers: Okay, and that brings us, well, before this, there was supposed to be a return to the Board by Gene Adler, Bixler Road, regarding Pond Flat Main Ditch. However, I discussed the situation with Mr. Adler last week, he's on vacation this week. I'm to meet him at his house and discuss with him some of the ideas he has for the repair of the embankment, etcetera, and that sounded like a good solution, gave us an opportunity to discuss his ideas, and then for the County Surveyor's office to formulate a plan to bring to you at a later date. So, his appearance before your Board should be postponed. I will say that there is no apparent damage to the channel at this time, because there's been no significant rainfall, and what he has done has generally been removed and repaired satisfactory to my viewing.

**Bullard Drainage Concerns: Old State Road at Sunrise Court**

Bill Jeffers: So, now we can move, there's no action required by you, I don't believe, we can move to the Hootie and Roger Bullard drainage concern on Old State Road at Sunrise Court, with which everyone here is familiar. Before I turn the podium over to the County Engineer's office for a presentation of their Power Point, I would like to say that compliments and thank you's are due to John Stoll, Patrick Seib and Valerie Harry. They did a superb job, a professional job in gathering the data and compiling it into an excellent presentation that I have viewed before the meeting. It covers the facts very thoroughly. The people of Vanderburgh County are fortunate to have such professionals on staff at the County Engineer's office to do this kind of work for them.

President Kiefer: So, John or Patrick?

Bill Jeffers: The laser pointer is down here, John, if you need it. Oh, you brought your own.

John Stoll: I hope we can live up to Bill's intro for us. Most of the credit goes to Pat Seib, he put together the vast majority of this. So, if I say anything incorrect, Pat will have to come up here and straighten me out.

Commissioner Abell: Is this just like the one you e-mailed us?

John Stoll: Yes. It was the final version that I e-mailed this afternoon. We had still made a few more changes, but I did send a revised version sometime this afternoon. As Bill said, the scope of this issue came about due to complaints regarding house flooding for the house at the southwest corner of Sunrise and Old State, and also there was street flooding at the intersection of Sunrise and Old State. This slide shows the house that was flooded as well as the complaints, the depth of the water out in the intersection. In order to start this, we did an evaluation of just what the existing conditions are out there. Up the west side of the project area, it starts with a 42" driveway pipe on the Bullard property. That then drains into a six by five, 6.5' by 5' box culvert under Sunrise. That then becomes a 48" diameter pipe along side the Tillman property. That all outlets on the upstream end of the bridge under Old State Road. On the east side we have two 48" driveway culverts, and crossing the road, at the south end of the entire area, we've got a 36" diameter concrete pipe. In researching this, we found an old copy of the 1965 Old State Road plans. That was helpful in the sense that it told us when the 36" pipe was put in under Old State. You can see it marked in red on the drawing. The one thing that stood out on this

was, this was a federal aid project, and with this penciled in note on there it said no participation. So, from what I gather, it appears that this pipe was added on in a federal aid project, and the feds declined participation in it. So, it was something that was initiated by the county, which tells me that there was knowledge of a poor drainage condition out there, otherwise they wouldn't have added this pipe back in '65. The driveway culverts were shown as a 48" pipe on the Bullard property back then, and then there was also a 48" pipe running along the Tillman property, but there was a gap between the 48" pipe and the box culvert underneath Sunrise. There was just an open hole, open ditch left there in the middle. The 36" pipe was intended, you can see the arrows, it was intended to drain from the west side of Old State, through the 36 and then up the east side. What we found, this summarizes the drainage patterns as well, what we found was that the pipe, the 36" pipe was actually laid to where it drains from east to west, rather than west to east. I believe it's three tenths? The elevation difference, the east end of the pipe is three tenths higher than the west end. So, under low flows the water actually drains from the west side, the east side of Old State, back towards the Bullard property and then north up the west side, rather than the intended pattern of taking the surplus water and sending it to the east. When the water gets deep enough, the pressure flow conditions would push the water against that elevation difference and the water would go, but it does affect the capacity of the pipe, obviously. We also found, in reviewing the existing conditions, on the east side of the 36" pipe there's an accumulation of sediment that affects the flows, and we found that the 36" pipe that goes across Old State Road, the downstream elevation of that pipe basically matches the driveway culvert elevation. So, it's dead flat between the 36" pipe and the first driveway culvert on the east side. There again, not doing much for the flow capacities of any of that. Another existing condition that could be a source of problems is the condition of the branch of Little Pigeon Creek in which all this area drains. As you can see in that picture, there is a substantial amount of growth in the creek. We haven't, obviously, with the drought, been able to witness anything, any flows in the creek to find out whether or not it's having an adverse effect on the drainage, but looking at that picture, it could. One other thing that I wanted to bring up about existing conditions, at the last meeting there was a plan presented to the Commissioners, that was for E. Goebel Minor Sub. In researching that, that subdivision plat really didn't have anything to do with the drainage conditions we're dealing with. It covered two lots that front on Bujay Drive, which is outlined in green up here. The Bullard house is outlined in, the Bullard property is outlined in red down here at the intersection. It's totally independent of the problem we were looking at, minor subs don't usually have any kind of detailed drainage plans. So, it didn't really provide any good data for this problem. In evaluating all of this, the drainage areas were calculated for what was actually draining towards the Bullard property. On this slide you can see the drainage area runs all the way down to Campground Road. The total area is 170 acres, and we calculated ten, 25 and 50 year flows for that drainage area. In order to try and deal with the drainage conditions, we tried to come up with as many options as we could that were potentially financially feasible. We didn't know exactly what the final cost would be, but we were trying to come up with what we thought might be cost effective. Here we've got a list of what was looked at. First was re-grade the east side ditch, get rid of the sediment accumulation that's on the, that we found there on the east side down by the 36" pipe. We thought that there might be a possibility to reset the existing 36" pipe so it would drain from west to east, rather than east to west. We looked at the possibility of lowering the driveway culverts on the east side of the road in order to steepen up the ditch grade. That would necessitate resetting two 48" driveway pipes, pouring new concrete driveways, and rebuilding the head walls. We looked at the possibility of putting in a new pipe underneath Old State Road. The biggest pipe we could fit

would be an elliptical pipe, which would be the equivalent of a 42" round pipe. We evaluated removal of the driveway culvert on the Bullard property, because that is the first restriction that the flow, as the water goes from south to north, that is the first limitation on the capacity. We looked at the possibility of removing the 48" pipe that runs along the Tillman property, which is the west side of Old State just north of Sunrise. We also looked at the possibility of removing that 48" pipe and replacing it with a box culvert that would match what was running underneath Sunrise. Here are some slides that really summarize each individual option. This is the east ditch, this is the area where it's basically flat for all practical purposes. The sediment has accumulated there. In order to re-grade it we came up with a ballpark cost estimate of \$4,000-\$5,000. Due to the really flat grades, it would be best to put a concrete liner in the ditch, as the Surveyor had told us this afternoon, and I don't know what the final grade would be. We didn't do a detailed topographic survey, but our county ordinance would require a concrete liner if the ditch grade was less than .8 percent. So, in this situation it would be warranted. The grand total to re-grade the ditch would be about \$8,300. This was based on us hiring a contractor, not having the County Highway crews do the work. If the Highway crews could do the work, obviously, they could do it for cheaper. The second option was resetting the 36" pipe to drain from west to east. We came up with a preliminary cost estimate of \$8,700 for that, but that was just to reset the pipe. We would need to also redo the two driveways downstream, the two 48" pipes. We didn't really have a good cost estimate for that, but these are photos of the two drives that would need to be replaced as well. Given the size of the pipe, the stone headwalls, it would add several thousand dollars to that \$8,700 cost. The next option was the possibility of installing a new pipe under Old State Road. As we had said, the existing 36" pipe drains the wrong way. To correct that, we thought we could put a new pipe in with the upstream end immediately next to Sunrise, diagonal across the road, just upstream of the 48", the first 48" driveway pipe. In this situation we could remove the 36" existing, or we could leave it as is. Either way, it would take some extra flows, but not a substantial amount. We came up with a preliminary cost estimate of \$17,500 to put in this new 42" pipe. I've got a summary table that hopefully summarizes where, what all the options are and all the costs, but I'm just trying to give you a brief rundown here. Also, well, I'll show it here, the other option that was discussed was removal, like I said of the Bullard driveway. This is the first restriction that the flow comes down, this is the upstream end of the pipe. Here's the 42" pipe, that drains to the 6.5' by 5' box culvert. So, obviously, the box culvert is substantially larger than this pipe. So, we were proposing that this would be removed, because that was the first restriction that is hit. Here is the 36" pipe that we were talking about. This work we feel can be done by the Highway Department, so we didn't assign a cost to this one. This is one where the options start getting more expensive. At the last meeting, since the 48" pipe was deemed to be one of the obstructions out there, one of the options that was discussed was replacing the 48" pipe along the east side of the Tillman property with an open ditch. The open ditch would be, it's kind of hard to see, but on, Mr. Tillman's driveway is over here on the left side of the bottom photo, the slope would be a 2:1 slope down to the bottom of the ditch. It would be 5 ½' deep next to Mr. Tillman's driveway. So, we would come off his driveway, go down 5 ½' feet depth, get to the bottom of the ditch, four feet wide, and then there's an eight foot elevation difference from where the ditch would cut into next to Old State Road. So, we would have a substantial channel through there. I spoke to Mr. Tillman about that possibility, since it would affect his landscaping, it would affect his fence. He said he would potentially consider it if he would still be allowed to have a driveway in there. That driveway, we were estimating to put a box culvert in to match the opening area of the pipe underneath Sunrise would be in the neighborhood of \$37,000. That would provide the open ditch



and provide Mr. Tillman with a replacement driveway. However, we only have 30 feet of right-of-way on the west side of Old State Road, so, we would need about 14 to 15 more feet of right-of-way along the Tillman property. Mr. Tillman would obviously need to be compensated for the right-of-way. So, that's another added cost that we didn't have a ballpark estimate on. The most expensive option would be to replace all of the box culvert from Sunrise all the way through to where it outlets at the bridge. This is about 175 feet. Standard box culvert sizes are six by five or seven by five. There wasn't a standard for a 6 ½ by five. That would run, for a six by five, \$119,500, for a seven by five, \$153,100. The yellow, like I said, indicates exactly where it would run. We would go to the north side of the Tillman's driveway, and we would have some open ditch at the north end of that, just to try and control the cost and not have a box culvert the entire way. Here's the summary I was telling you about. This basically shows the ten year storm, 25 year storm, 50 year storm, we can only get a 50 year storm capacity for these options, even when we go with the most expensive of the alternatives. We can get close to, I shouldn't say we get close, we can get 50 year capacities on the last two options, but the remainder run between ten and 50 years. So, we don't have a way to make the property not flood. The house sits lower than the road. Once we exceed the capacity of all, any of these options, the water would break out of the ditch, and since the house is lower, the water is going to flow in that direction. There's not a whole lot that we can do in regard to that. So, I just wanted to point out that, even though this summarizes the various options and the cost of those options, we're still looking at anywhere from a ten to a 50 year storm. We can't accommodate a 100 year storm. I guess, it might be possible to come up with some option that could do that, but we're already at \$161,000 to deal with what we have as the most expensive alternative for a 50 year. To take a 100 year, we would be dealing with more pipes and substantially more cost would be my guess. We didn't even try to come up with another option beyond that. Long story short, we can't do anything that's going to pick anything greater than a 50 year storm, so we can't make the property not flood. All these options that we've looked at, they're all based on the assumption that the pipes aren't obstructed. If the pipes get obstructed, even if we had a 100 year capacity, if they get blocked there would still be flooding once the water gets out of the ditch bank. In reviewing some of the rainfall data that we could get from the airport, from the National Weather Service, and dating back to May and June and July of last year, we didn't see any really intense heavy rainfalls that would have put the pipes over capacity. So, it was our best guess that there was probably an obstruction in there. We can't prove that, but the rainfall that we saw, I think the most we saw in any given period was an inch per hour for two or three hours, which isn't, unless the ground was totally saturated then all bets are off, but that wouldn't be enough to start causing flooding. So, the guess was something had blocked the pipes. It says up there our evaluation was based on preliminary survey data, we have not done a detailed topo survey, so we may run into other obstacles out there even if we try to implement any of these alternatives. We know there's a sanitary sewer out there on the northwest corner of Sunrise and Old State. We think that we might be able to work around the manhole riser through there, but unless we had a detailed topo survey we don't know for sure. There may be other issues like that out there that we wouldn't know until we actually did a full blown survey. When Pat did this work, he did enough survey data to get us to this point to figure out what might work, but we would have to do quite a bit more survey work, if we were pursuing any of these options.

President Kiefer: John, thank you for a very detailed report. I really appreciate it. This is quite a bit of information, and I think, at least for me, I can't speak for the other Commissioners, but I'm going to need a couple of weeks, until at least our next meeting to digest some of this, because this is quite a thorough report. I, before we

open it up, or we can open it up for discussion, but, you know, I would also like to ask for a motion to accept this under advisement, and then we can be better prepared to make a decision at a later meeting.

Commissioner Melcher: I'll make that motion.

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes, but I also have a question.

President Kiefer: Sure.

Commissioner Abell: I have one question, if we did any of this, like if we just started out and did the ten year, the smallest, can you do that and then build on it later if that doesn't work?

John Stoll: Yes.

Commissioner Abell: Okay.

John Stoll: Actually that was one of the things that Pat was talking about earlier today, was the fact that it might be best to do it in increments to see how well it performs. Capacity-wise there's some things that we can do to increase the overall capacity of the overall system, some of it can even be done by the Highway Department. So, that would lower the cost versus what we've shown here, so that is definitely an option.

Commissioner Abell: Okay, thank you. I vote yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: Thank you, John, and we'll, hopefully, the next two weeks, or between now and the next meeting we'll have some time to digest all of this and to get with you personally to ask more questions, and we'll re-address this on some kind of plan at the next meeting. Thank you very much, John.

Commissioner Abell: And Pat.

President Kiefer: Pat, thank you, a lot of good work there.

**Approval of Ditch Maintenance Claims**

President Kiefer: Surveyor Jeffers, if you want to talk about claims from ditch contractors.

Bill Jeffers: Pardon me, I have a folder full of claims from the 2012 ditch contractors who have completed work. The work's been inspected by our crew. The required paperwork for the County Auditor is attached. The County Surveyor asks that you pay those claims.

Commissioner Melcher: I make a motion to approve the claims.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

**Other Business**

President Kiefer: Any other business?

Bill Jeffers: I have no other business at this time.

**Public Comment**

President Abell: Okay, public comment? I would like to get a motion to...oh, yes?

Roger Bullard: Roger Bullard, 41 East Sunrise Drive. So, basically, I can't really discuss much because of litigations on the property, but what I just kind of gathered here is, basically, we will not be able to fix that house flooding. Did I just understand that?

President Kiefer: No, what we said was because this report was quite lengthy–

Roger Bullard: Right.

President Kiefer: –and, I mean, I can't digest all of that in just one sitting like this.

Roger Bullard: Right, no, I thought I heard Mr. Stoll say in the evaluation of it all they don't know if they could stop our home from actually flooding, as far as any of the options.

John Stoll: The best we can do, based on what we found, was handling a 50 year storm. So, if we get a 100 storm, then water would get out of the ditch banks and go back towards your property.

Roger Bullard: I understand that, because of the levels, how they've changed over the years. That goes back with litigations again. I would also like to point out that about two and a half weeks ago, across Old State from us, across Bob Court, up two driveways they fixed a water line break. It made it worse. Now, actually the culvert that they're talking about that the water is running backwards into our ditch, if you go on the opposite side of Old State from us and stand on that culvert, you can see water, clear chlorine water, like they have a fire hydrant open. You know, not with a swish, swish, but, you know, slowly draining. It's a steady stream of clear chlorine water, it fills in that hole there, and like he had shown, the land that has eroded over here where it can't continue to drain, so it's running uphill to our ditch. Still we, now that they've fixed that water main break, now it's worse. It's running steadily, chlorine water steadily upstream, up that pipe, down our ditch, and it's running.

Commissioner Abell: It's running right now? Like today?

Roger Bullard: It's running.

Commissioner Abell: Well, there must still be a leak out there. It isn't raining.

Roger Bullard: It is bad. It's bad. It is running. You can stand on the culvert and listen to it drop in the hole, like—

President Kiefer: Well, maybe we can have the County Engineer check with the Water Department and investigate that.

Roger Bullard: Like I said, they fixed a water main break two driveways up on that side, but it seemed to make it worse. Now it's running faster.

President Kiefer: Yeah, well, we'll have the County Engineer check into that with the Water Department.

Roger Bullard: Okay, thank you.

President Kiefer: Thank you very much. Is there a motion to adjourn?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: We are adjourned.

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

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

John Stoll

Members of Media

Stephen Melcher

Joe Harrison, Jr.

Roger Bullard

Marsha Abell

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
AUGUST 14, 2012**

The Vanderburgh County Drainage Board met in session this 14<sup>th</sup> day of August, 2012 at 5:36 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: Okay, if we're ready to start the Drainage Board meeting.

Commissioner Abell: Yeah, let's do it.

**Pledge of Allegiance**

President Kiefer: I would like to ask that we open the meeting with the Pledge of Allegiance by County Surveyor, Bill Jeffers.

(The Pledge of Allegiance was given.)

**Approval of the July 24, 2012 Drainage Board Meeting Minutes**

President Kiefer: Okay, is there a motion to approve the minutes of the previous meeting?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: So approved.

**Bullard Drainage Issue: Sunrise/Old State**

President Kiefer: Old business, Sunrise/Old State.

Bill Jeffers: I only put that on there as a courtesy in case there was to be a discussion tonight, but I didn't see anyone in the audience to whom you would, with whom you would discuss it. Unless you had a—

Commissioner Abell: Is that the—

Bill Jeffers: Bullard.

Commissioner Abell: — yeah. We had a pretty hefty rain, did we not hear anything from them? I didn't.

Bill Jeffers: I didn't.

Commissioner Abell: Oh, there's someone in the audience who's raising their hand. I'm sorry.

Doreen Flora: (Inaudible. Not at microphone.)

Commissioner Abell: Oh, yes.

Bill Jeffers: Does anyone need an agenda? Does everyone have an agenda?

Commissioner Melcher: I've got an agenda.

Commissioner Abell: Yes.

Bill Jeffers: Okay.

President Kiefer: That's what I was looking for, an agenda.

Commissioner Abell: It's in your book.

President Kiefer: Yeah, I found it. Hi.

Doreen Flora: Hi.

President Kiefer: Do you want to state your name for the record and your address?

Doreen Flora: My name is Doreen Flora, F-I-o-r-a. I live at 7111 Old State Road.

President Kiefer: Okay, thank you.

Doreen Flora: Normally my neighbor across the street on Sunrise, Roger, and his associate have been here to represent us. He is out of town and he asked that I come and sit in and see if there were any final dates for the changes that are going to be made, or what the status is of coming out and working on the properties.

President Kiefer: Mr. Jeffers?

Bill Jeffers: As I said, I put this on this agenda because of the way the minutes of the last meeting read. However, I have not had any communication with anyone with regard to the situation. So, I have no comment at this time.

President Kiefer: Okay, was this something that John Stoll was also working on?

Commissioner Abell: John Stoll was working on this. Are you waiting on us to give you some up or down on spending money out there, Mr. Stoll?

John Stoll: Yes, basically that would be the next step as far as what direction, whether we need to work with Mike's crews and have the County Highway start doing stuff, and step by step to see how it affects things. Like cleaning the ditch on Old State.

President Kiefer: Yeah, I think we were looking at the cheap option, first. Or, let me put it this way, the inexpensive option first.

John Stoll: That's where initial steps that would be able to be done by the Highway Department could be things like cleaning the ditch along Old State, or removing the driveway pipe upstream, the Bullard driveway pipe upstream of Sunrise Drive. We could start with things like that, then go to more expensive options later if those weren't giving the relief to the flooding. The end product is though, with all of the options that we've looked at, the best we could ever handle would be a 50 year storm—

President Kiefer: Yeah, I remember that.

John Stoll: – so, that's the obstacle we have there.

President Kiefer: I mean, I don't know if it's something we can vote on tonight or not, because I don't remember those exact details. I remember you did a nice spreadsheet for us showing us those.

John Stoll: When it's all said and done, I mean, we, like I said, start with the steps that could be done in-house with county crews. That would at least avoid—

President Kiefer: Okay.

John Stoll: – a major expense.

President Kiefer: Is there a motion that we would start with doing some work in-house, without hiring out contractors, and we could allow Mike Duckworth to see what kind of work he could do in-house? Is there a motion, along with working with John Stoll?

Commissioner Melcher: Let's ask Mike if that's okay. I mean, it probably will be, but I would rather have it on record.

Doreen Flora: Can I just, okay, I've lived there for eight years now, and we've had the ditch cleaned out twice, and it still hasn't alleviated the problem. So, I don't think scraping that back out, it just, personally I've seen the topography of the land change, as far as Old State Road. Every time that gets cleaned out, that's fine, that's kind of a temporary fix, but then that sinks down again, and it fills that ditch back up. I mean, it's so full right now nothing is even, I mean, it's reverse.

President Kiefer: Well, at least it could temporarily help or alleviate some of the problems.

Doreen Flora: Sure.

President Kiefer: I think, this has been quite a contentious issue, and we've gone through it, and, obviously, you weren't probably at those earlier meetings, but, you know, I think we have established that this was a problem that was due to residents that have built things there really that they shouldn't have built that has kept the flow of water from flowing properly.

Doreen Flora: Right.

President Kiefer: We're going to try to assist and do the best we can, but I really, I think the first step is then for us to get that thing cleaned out, at least on a temporary basis until we can figure out how to address their bigger ticket items.



Doreen Flora: Sure. Okay.

President Kiefer: Mike, Commissioner Abell...huh? Commissioner Abell was asking about whether or not you could perhaps move out the driveway, was that what you were saying?

Commissioner Abell: I think you talked about the pipe and the driveway.

President Kiefer: Yeah, is that something you can handle, Mike?

Mike Duckworth: I think we can. We've worked along side Mr. Stoll, and I think we've got the equipment to do that.

President Kiefer: Yeah, and the ditch work. So, see, this is more than just cleaning out the ditch. I mean, there's a little bit more than that.

Commissioner Abell: Do we have a right to go on and do this?

Joe Harrison, Jr.: Well, I don't if we have any right-of-way, so that's a whole nother issue.

Commissioner Abell: Yeah, that was my question.

Commissioner Melcher: That's where I was waiting on him.

Joe Harrison, Jr.: Yeah, I have—

Commissioner Melcher: I want to make sure whatever we do, there's some signed agreements with whoever we're doing it on.

Joe Harrison, Jr.: Yeah, we can't do anything until we have right-of-way.

John Stoll: The Bullard driveway pipe, I believe, will require a temporary right-of-way. I don't believe that the pipe lies totally within right-of-way. We only have a 30 foot right-of-way on the west side of Old State. So, options like some of the things that were suggested at prior meetings were, putting an open ditch on the north side of Sunrise all the way to the creek. We can't do that, because that would be well off the right-of-way. I can't remember the numbers off the top of my head, but I thought it was 20 feet or more of the ditch, if we tried to put a ditch north of Sunrise would be outside of the right-of-way. So, that would take a significant right-of-way from the property owner on the north side of Sunrise. I know that's not what you're looking at right now, but that's just one of many problems with implementing the various options that we've looked at. So, long story short, we can start with getting temporary right-of-way from the Bullards, if they'll still allow us to take their driveway pipe out. The work on the east side of Old State, as far as trying to get a little ditch cleaning, that can be done within the existing right-of-way.

President Kiefer: I would say—

John Stoll: Beyond that we would be needing more property from other affected property owners.

President Kiefer: Right, but, obviously, be careful not to do work on property without having the appropriate permission and right-of-way.

Commissioner Melcher: Right, and I want to ask Bill if he's comfortable. Bill, as Surveyor, are you okay with this?

Bill Jeffers: Well, I've worked very closely with John Stoll and his department for many years, and anything that John Stoll is comfortable with recommending to you, I'm 100 percent comfortable with.

Commissioner Melcher: No, and I agree, but I just thought, you know, you're in the room and you need to know what's happening.

Bill Jeffers: Right.

Commissioner Melcher: What I also would like, if we're doing it in-house, whatever we would make a contractor do, we need to make sure we follow the same example. In other words, if there's codes, if there's anything, our group has to do the same thing we would force somebody else to do. So, they just can't just go in there and do it. I mean, whatever they've got to do, I want them to follow the same regs as everybody else.

President Kiefer: Commissioner Melcher, I think legal counsel here is advising us that before they actually do work, bring, you know, let us see the right-of-way, you know—

Commissioner Melcher: No, I—

Joe Harrison, Jr.: Temporary right-of-way signed off—

President Kiefer: Temporary right-of-way.

Joe Harrison, Jr.: — so it's presented to the Commissioners before you start.

Commissioner Melcher: No, I guess, I assumed that already, but since we've brought it up.

President Kiefer: Right.

Joe Harrison, Jr.: Well, I want it to come before you all before you start.

President Kiefer: But, I do know the neighbors are anxious, so—

Commissioner Melcher: Well, then we ought to have that ready for the next Drainage Board meeting then.

Joe Harrison, Jr.: Sure.

President Kiefer: If they're cooperative. I mean, if the neighbors aren't cooperative, well, then we can't help ya.

Doreen Flora: Yes, we're all on board for it.

President Kiefer: Okay. Alright. Thank you.

John Stoll: One thing too, I mean, this is just my personal opinion, but seeing the rainfall data for everything that we looked at from last year, it still appears to me that

those pipes were blocked with debris at the time the flooding must have occurred, because I never saw, in the historical rainfall records that I was looking through, a rain event that should have been big enough that would have caused that ditch to get out of its banks. So, I just wanted to state that again, because if the pipes get blocked, all bets are off as far as any benefit of anything that we would do here. Short of having open ditches throughout, if the pipes are blocked the flooding will happen again, because Old State Road is higher than the Bullard property. So, once the ditch, the water gets out of the ditch banks, it's going to end up on the house side of the ditch.

President Kiefer: Okay, thank you.

Commissioner Melcher: Okay.

President Kiefer: Thank you, John.

Commissioner Abell: Thank you.

President Kiefer: Thank you for coming out.

#### **Gene Adler Drainage Issue: Pond Flat/Mann Road**

President Kiefer: So, now we're on to the next issue of Pond Flat/Mann Road.

Bill Jeffers: Right, I just wanted to update you on that. I met with Gene Adler a little over a week ago, and he's agreed to move the levee back away from the ditch, at his expense. That will relieve a load, you know, a load of weight on the ditch bank, and, hopefully, prevent future loss of the bank. He's also, in the meantime, removed a lot of rubble, rock, accumulated sediment from the ditch, and he will bury that on his property. His brother is doing that, who I think is Adler Excavating. The County Surveyor's office will proceed with developing a plan to pull the ditch banks back and apply erosion control fabric, etcetera, as we did below that site last year on the same ditch. We will implement that as funds become available in the account for Pond Flat. So, that's the update on that.

#### **Receiving of Ritzert Drainage Obstruction Petition**

Bill Jeffers: Under new business, all we have tonight is to receive a petition, which Madelyn has the original copy there for you, along with the recording for, or, not, excuse me, the filing fee of \$100. This is from Roy J. Ritzert, forty, 6407 Kratzville Road, Evansville, Indiana. He's asking the Drainage Board, he's petitioning the Drainage Board to order the removal of an obstruction that he alleges to exist at 6128 Hickory Hill Lane, Evansville, Indiana, on his neighbors property. He names the neighbor, and he specifies the items and materials, etcetera, the condition that exists that he alleges is an obstruction. The petition, when you accept it tonight, serves as the County Surveyor's warrant to enter onto private property and conduct an investigation specifically as to the alleged obstruction at the location only. Without the petition, I'm not able to go on private property. So, the statute that covers this is I.C. 36-9-27.4. Everything appears to be in order to me, and the County Surveyor recommends that the Drainage Board accept this petition from Mr. Ritzert, who is in the audience, apparently with some neighbors. That will enable me to conduct an investigation and report back to you with a written report, as soon as possible. Then the Drainage Board is obligated to hold a hearing, during which Mr. Ritzert can give

his side, and the respondent, Mr., just a moment, Mr. Gerardo Madero as the respondent will give his reply. Then the Board will be obligated to come to a finding and make a determination as to whether an obstruction does exist, and if it does, that it be removed at the expense of the person who put the obstruction in the ditch.

President Kiefer: I'll ask for a motion to approve, to receive the petition, and to proceed as outlined by Surveyor Jeffers.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: I'm going to vote yes, but I have a question. Does the Hickory Hill come into Kratzville? I'm not familiar with where this is.

Bill Jeffers: Well, I'm in the same boat you are—

Commissioner Abell: Oh.

Bill Jeffers: — Madam Commissioner, it's in the city, and so I'm not as familiar with it as if it were out in the county in a subdivision. It's out there behind, north of Central High School, in those neighborhoods north of Central, and then Mr. Ritzert owns a larger parcel on Kratzville Road that was there first, and his drainage goes down into the newer subdivision, but, of course, you know those houses were built, what, in the 70's and 80's, I guess?

Commissioner Abell: Yeah.

Bill Jeffers: So, the pipe's been there a long time. Mr. Ritzert's pipe discharged into an open field at one time. That open field is now a subdivision, and the property owner into which Mr. Ritzert's pipe drain discharges has placed some pipes and other inlet structures along the ditch, and Mr. Ritzert alleges that they are undersized and causes an obstruction to his drainage. So, that's essentially what it is, a downstream accumulation, or a downstream application of pipes and inlets that Mr. Ritzert alleges are undersized compared to his, and that constitutes an obstruction, according to him. Now, I have to go out and investigate that and report back to you.

President Kiefer: I think this is worthy to be investigated, and, hopefully, we can—

Bill Jeffers: Right.

President Kiefer: — move ahead with this, and then look forward to—

Bill Jeffers: Having the hearing.

President Kiefer: – the hearing, and you reporting back. I think we have a first and a second.

Commissioner Abell: You do.

Madelyn Grayson: And everybody has voted except for President Kiefer.

President Kiefer: And I vote yes.

**(Motion approved 3-0)**

Bill Jeffers: Okay, so now, you don't have to do this tonight, but you have to wait at least 30 days after the receipt of the petition to have the hearing, and you have to have it within 90 days of today. So, just for your information, at this time, September 13 would be 30 days, and your next meeting is September 18<sup>th</sup>, that's an availability, that's 35 days. October 2<sup>nd</sup> is 49 days, that would probably fall during Fall Festival, you might not want to do it then. October 16<sup>th</sup> is 63 days, and November 13<sup>th</sup> is 88 days, the last available Drainage Board date. You can make that decision–

Joe Harrison, Jr.: You can make that determination whenever you submit the report.

Bill Jeffers: Right, I'm just giving you that as benefit to the new Commissioners who have never been in one of these hearings.

President Kiefer: No, thank you very much. I appreciate that.

Bill Jeffers: You have 30 days to wait, and you can wait no longer than 90. So, that takes care of that.

**Receive Information Concerning I.C. 36-9-28.7**

Bill Jeffers: I would also like to point out, the only other item of business I have on the agenda, is for you to receive information about this new statute that took effect last year, that I was unaware of until this came, this petition came. The respondent is filing an action with the City Board of Works alleging that Mr. Ritzert has a storm water nuisance located on his property. But, in this case, the Board of Works and the City Engineer will have to handle that, and you got an e-mail this afternoon reply from Mr. Harrison that I think answers all of the questions that I was going to bring up tonight. So, read the e-mail and we'll move forward.

President Kiefer: We're not making any hasty judgements. So, we'll look forward to your report.

Bill Jeffers: Right. I just wanted to let you know that there's this new law hanging around that's going to create some additional work. But, Mr. Harrison answered all of my questions very thoroughly in the e-mail that you can read. He copied, he sent it to you as well.

President Kiefer: I saw that. Thank you.

**Ditch Maintenance Claims**

Bill Jeffers: Okay, we have no claims tonight, and I have no further business, unless you do.

**Public Comment**

President Kiefer: Is there public comment? Seeing none, I seek a motion to adjourn.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Done, we're adjourned.

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

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

Doreen Flora

Others Unidentified

Stephen Melcher

Joe Harrison, Jr.

John Stoll

Members of Media

Marsha Abell

Madelyn Grayson

Mike Duckworth

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
AUGUST 28, 2012**

The Vanderburgh County Drainage Board met in session this 28<sup>th</sup> day of August, 2012 at 5:45 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for August 28, 2012.

**Pledge of Allegiance**

President Kiefer: I would like to ask County Attorney, Joe Harrison, Jr., to lead us in the Pledge.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you, Joe.

**Approval of the August 14, 2012 Drainage Board Meeting Minutes**

President Kiefer: Is there a motion to approve the minutes of the previous meeting?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

**Bullard's Temporary Right-of-Way**

President Kiefer: Okay, we're right into old business. Mr. Surveyor if you want to talk about the Bullock's temporary right-of-way.

Bill Jeffers: I probably misspelled that name. Is it Bullard? Yes, I'm sorry, Mr. Bullard, if you're watching, I misspelled your name on the agenda. I believe Mr. Bullard has retained the services of an attorney who has advised him to await, wait another period of time before appearing and making any comments about the on-going project.

President Kiefer: Okay.

Bill Jeffers: That's what I heard after I'd already printed the agenda.

**Setting of Hearing Date for Ritzert Drainage Obstruction Petition**

Bill Jeffers: So, we can move to the next item, which is setting a date for the Ritzert petition hearing. Mr. Ritzert filed his petition a meeting or two ago. Let me get a calendar up here, September 4<sup>th</sup> would be an available date, however the respondent, Mr. Gerardo Madero, is in the audience and respectfully requests that September 4<sup>th</sup>, he is out of town and would not be able to appear at a hearing. So, your next date would be September 18<sup>th</sup>, and after that October 2<sup>nd</sup> would be during Fall Festival, I'm not sure that would be the best time to have one. Then, is there a meeting scheduled for the 16<sup>th</sup> of October?

Joe Harrison, Jr.: Yes, there is.

Bill Jeffers: Okay, so—

Joe Harrison, Jr.: That's within the statutory time frame?

Commissioner Abell: It doesn't have to be that...Mr. Melcher isn't going to be in town on September the 18<sup>th</sup>, and I'm going to have to leave as soon as possible on the 18<sup>th</sup>. So, we may have to move it on down.

Bill Jeffers: October 16<sup>th</sup>?

Joe Harrison, Jr.: We were talking about the 16<sup>th</sup> of October.

Commissioner Abell: I know, I was just saying, he mentioned the 18<sup>th</sup> (Inaudible).

Bill Jeffers: That's fine with everyone, I think, if it's okay with the Commissioners.

Commissioner Melcher: So, which date?

Joe Harrison, Jr.: October 16<sup>th</sup>.

President Kiefer: Do we need to vote—

Joe Harrison, Jr.: Yes.

President Kiefer: —to do that date?

Bill Jeffers: Yeah, just set a date, that would be fine.

Commissioner Melcher: So, I'll make the motion that we set the date for 16<sup>th</sup> of October.

Commissioner Abell: Second.

President Kiefer: Okay. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?



Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Bill Jeffers: So, we will send out a notice to the interested parties for the meeting to be held on that date, and that it will be immediately following the Commissioners meeting of the same date.

Joe Harrison, Jr.: As far as the report, I'm a little forgetful in the statutory, will we get a report—

Bill Jeffers: Before that?

Joe Harrison, Jr.: Yes.

Bill Jeffers: Yes, I will submit a report, attached to an e-mail to each of the Commissioners, the attorney, the two parties, and to whomever anyone requests that I also send an e-mail with the attachment. I would say, what, a week or two before the hearing would be sufficient.

Joe Harrison, Jr.: Yeah, I think that would be fine.

Bill Jeffers: I intend to complete that report in the next couple of weeks.

Joe Harrison, Jr.: I'll get with you on sending out a notice, like we've done before in the past, maybe by certified, regular mail.

Bill Jeffers: Sure.

Joe Harrison, Jr.: Just so we have confirmation that notice was properly sent and received, hopefully.

Bill Jeffers: Fine.

Joe Harrison, Jr.: Okay.

Bill Jeffers: Good deal. I think unless anyone else has a comment on that, that takes care of that item.

<b>Comstock Drainage Easement Encroachment Agreement</b>
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Bill Jeffers: Under new business, we have an easement encroachment agreement from the Comstock's, which Madelyn Grayson has there for your signature. I believe Mr. Harrison has examined it?

Joe Harrison, Jr.: Yes, and it's in order.

Bill Jeffers: The certificate of insurance, I believe, is attached, and the County Surveyor has no objection to the request.

President Kiefer: Is there discussion?

Commissioner Abell: Move for approval.

Commissioner Melcher: Second.

President Kiefer: Roll call, please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Bill Jeffers: That was for a dock on a lake, which has other docks on the same lake by other residents of the same subdivision.

<b>Approval of Ditch Maintenance Claims</b>
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Bill Jeffers: Claims, I have a few claims from contractors who have completed their work. The work's been inspected. The inspectors say that the work was completed in accordance with the contract, and the County Surveyor recommends approval and payment of these claims.

President Kiefer: Okay, is there a motion?

Commissioner Melcher: I'll move to approve.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

**Public Comment**

Bill Jeffers: I have no further business, but remain available if the Commissioners have any business that they wish to attend to at this time concerning drainage.

President Kiefer: As I see no one in the audience, I assume there's no public comment. So, I look for a motion to adjourn.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: We are adjourned.

(The meeting was adjourned at 5:51 p.m.)

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

Others Unidentified

Stephen Melcher

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
SEPTEMBER 4, 2012**

The Vanderburgh County Drainage Board met in session this 4<sup>th</sup> day of September, 2012 at 5:24 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board meeting for September 4, 2012.

**Pledge of Allegiance**

President Kiefer: Linda, would you lead us in the Pledge please?

(The Pledge of Allegiance was given.)

President Kiefer: Thank you very much.

Linda Freeman: Thank you.

**Approval of the August 28, 2012 Drainage Board Meeting Minutes**

President Kiefer: Is there a motion to approve the minutes?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: Okay, that was easy enough.

Linda Freeman: Oh, yeah, if we can zoom this in a couple minutes, we'll save the county a little money.

President Kiefer: New business please.

**Bennett Drainage Easement Encroachment Agreement**

Linda Freeman: Basically we have the encroachment agreement for 3030 Thornhill Drive, which is lot 240 in Carrington Meadows, Section One. Bill and I and the gentleman that's planning on doing the work and the lady that wants the work done, we've come to an agreement, and it's the new drawing with the notation that the wall is to terminate within ten feet of the property lines, and the land is to be graded to match adjacent property owners to prevent lateral runoff overflow. So, and beyond that, we're fine with it. I think it will improve the lady's property, and she'll be able to mow her grass, because, basically, that edge of the lake is kind of—

Commissioner Abell: So, you're okay with it?

Linda Freeman: Yes, Ma'am.

President Kiefer: Is there discussion?

Commissioner Abell: As long as the Surveyor is happy, I'm okay with it.

Commissioner Melcher: As long as the Surveyor is okay with it.

President Kiefer: Okay.

Commissioner Abell: Yeah, as long as the Surveyor is happy, we're happy.

President Kiefer: So, we need a motion then to approve?

Joe Harrison, Jr.: Yeah, motion to accept, or motion to approve the drainage easement, and the certificate of insurance is in line. I think Madelyn has already received the appropriate check for recording purposes.

President Kiefer: Okay, is there a motion?

Commissioner Melcher: Joe, did you get a chance to look at this?

Joe Harrison, Jr.: Yes, I did.

Linda Freeman: We actually sent him a copy Friday.

Commissioner Melcher: I'll make the motion to approve it.

Commissioner Abell: Second.

President Kiefer: Okay, thank you. No further discussion? Madelyn, roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

President Kiefer: Okay, great. That was easy.

Linda Freeman: Thank you.

President Kiefer: Other business?

Linda Freeman: Anybody else? Oh, gosh, doesn't look like it.

<b>Public Comment</b>
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President Kiefer: Public comment? Oh, gosh, doesn't look like it. Okay, we're adjourned.

Linda Freeman: Thank you.

(The meeting was adjourned at 5:25 p.m.)

**Those in Attendance:**

Joe Kiefer

Linda Freeman

Others Unidentified

Stephen Melcher

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
SEPTEMBER 18, 2012**

The Vanderburgh County Drainage Board met in session this 18<sup>th</sup> day of September, 2012 at 5:29 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

Commissioner Abell: I take it Mr. Jeffers isn't here and Linda is going to do the Drainage Board tonight.

Linda Freeman: Yeah.

President Kiefer: Hi, Linda. We'll call to order the Vanderburgh County Drainage Board for September 18, 2012—

Commissioner Abell: Give me one minute to sign her, Elizabeth, do you want me to sign your paper?

President Kiefer: We'll start momentarily.

**Pledge of Allegiance**

President Kiefer: Linda, would you lead us in the Pledge please?

(The Pledge of Allegiance was given.)

**Approval of the September 4, 2012 Drainage Board Meeting Minutes**

President Kiefer: Okay, is there a motion to approve the minutes of the previous meeting?

Commissioner Abell: So moved.

President Kiefer: Second. All in favor say aye.

Commissioner Abell: Aye.

President Kiefer: Aye.

**(Motion approved 2-0)**

**The Stables & The Stables PUD: Final Drainage Plan**

President Kiefer: New business?

Linda Freeman: We have a final drainage plan approval for The Stables and The Stables PUD, plus the additional phase that is not named yet. The total area that this covers is 16.483 acres. He, Mr. Poff is here in the audience if you have any questions from Sitecon. Like I said, it substantially conforms to the Vanderburgh County drainage ordinance and we recommend approval.

President Kiefer: So, you recommend approval? Okay.

Commissioner Abell: Is this up by Cambridge golf course?

Linda Freeman: No, no, no. This is The Stables, this is the one on South Green River Road.

Commissioner Abell: Oh, okay. I know where it is, yeah.

Linda Freeman: Yeah, it's Chris Combs'--

President Kiefer: Yeah, right.

Linda Freeman: Yeah, it was brought to you for preliminary approval in July of this year.

President Kiefer: Is there a motion to approve?

Commissioner Abell: So moved.

President Kiefer: I second that. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 2-0)**

President Kiefer: Easy enough on that one.

Linda Freeman: Yes, sir.

<b>Approval of Ditch Maintenance Claims</b>
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Linda Freeman: Then we have, I've presented them to Madelyn, payment for claims on the maintenance of our regulated drains that we've inspected. We also had an emergency tree removal on Pond Flat Lateral D in the amount of \$200. So, I mean, if you want to go get some trees for a couple hundred bucks.

President Kiefer: Discussion? Is there--

Commissioner Abell: Move to approve.

President Kiefer: Okay, second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.



Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 2-0)**

<b>Other Business</b>
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Commissioner Abell: Linda, I don't know if you were here earlier when I mentioned that I went out to—

Linda Freeman: Yes, I was.

Commissioner Abell: Okay.

Linda Freeman: Awesome.

Commissioner Abell: It was running pretty well.

Linda Freeman: Oh, the reason Bill is not here, he had a family emergency, and we're expecting him back in the next couple of days. He flew out to D.C. to take care of some of his business with his father. We're hoping everything's doing well.

Commissioner Abell: Yeah, hope it's not serious.

President Kiefer: Is there any other business?

Linda Freeman: Not that I have.

<b>Public Comment</b>
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President Kiefer: Public comment? Okay, I would like to have a motion to adjourn.

Commissioner Abell: So moved.

President Kiefer: We are adjourned.

(The meeting was adjourned at 5:33 p.m.)

**Those in Attendance:**

Joe Kiefer  
Joe Harrison, Jr.  
Members of Media

Marsha Abell  
Madelyn Grayson

Linda Freeman  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
OCTOBER 16, 2012**

The Vanderburgh County Drainage Board met in session this 16<sup>th</sup> day of October, 2012 at 6:31 p.m. in room 301 with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: Okay, I would like to call to order the Vanderburgh County Drainage Board for Tuesday, October 16, 2012.

**Pledge of Allegiance**

President Kiefer: If, Mr. Jeffers, you wouldn't mind leading us in the Pledge, that would be appreciated.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you, well done.

**Approval of the September 18, 2012 Drainage Board Meeting Minutes**

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

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: Okay.

**Public Hearing: Roy J. Ritzert Drainage Obstruction Petition**

President Kiefer: Hearing for Roy Ritzert's petition to remove drainage obstruction. Mr. Surveyor?

Bill Jeffers: Yes, sir. The petitioner is Roy J. Ritzert, 6407 Kratzville Road, Evansville. The respondent is Gerardo Madero, 6128 Hickory Hill Lane, Evansville, Indiana. The County Auditor received the petition from Mr. Ritzert on August 10, 2012, and the petition was received by the County Drainage Board on August 14, 2012, where we subsequently set a hearing date of today. On September 6, 2012, as directed by statute, the County Surveyor visited and investigated the site and found objects and materials existing at the site that generally conform to the description of the same as alleged by the petitioner. Additionally, the County Surveyor received various letters, messages, photographs, and an engineer's drainage study as part of the investigation and will present some of that information along with this report. The County Surveyor's findings are that objects and materials

constituting the alleged obstruction were found at the site, including the following; approximately 100 feet of ten inch diameter, single wall, perforated high density polyethylene pipe encased in a fabric sock; two junction boxes or catch basins fabricated from plastic barrels that were cut in half and set into the ground as catch basins; and then pea gravel and earthen fill that was used to bed and backfill the approximately 100 feet of pipe. As to an impacted open channel meeting the statutory definition of a drain, the objects and material found at the site are in a previously open channel that was known to exist at the site as an open channel continuously since before 1972, and which for several decades since 1972 served as a drain for several private properties, meeting the statutory definition of a mutual drain. The area of land constituting the watershed for this drain, at the point of study, encompasses approximately 13 acres and was found by William Bivens, Professional Engineer, to generate storm water runoff during a 25 year storm of between 23 and 25 cubic feet per second at the point of discharge. Mr. Bivens' calculations indicate that an 18 inch to a 24 inch pipe, depending on at what grade it would be installed, would be required to convey that 23 to 25 cubic feet per second. Therefore, Mr. Bivens' drainage study demonstrates that Mr. Madero's ten inch corrugated plastic pipe is undersized to convey the runoff from the design storm, which is assigned by our county drainage code. Madero's ten inch pipe constitutes an obstruction as defined by the applicable statute, which defines an obstruction as a condition that exists within or near a drain and prevents or significantly impedes the flow of water through the drain. The term includes the following; the presence of one or more objects inside or near a drain, a quantity of materials inside or near a drain, or damage to the drain that prevents or significantly impedes the flow of water through the drain. The County Surveyor's investigation found that conditions, objects, materials and damages inside or near the drain, which objects, materials, conditions and damages significantly impede the water flow through the drain, thereby causing poor drainage of Roy Ritzert's property. I noticed that I misspelled Mr. Ritzert's name in some places. The proper spelling is R-i-t-z-e-r-t. Okay, a series of photographs in this Power Point that we're about to show, will verify the significant impediment of storm water flow through the obstructed drain. The first photograph shows the properties involved, the triangular piece is Mr. Ritzert's property. The drain comes out of this woods here, that's the Douglas' property, comes across this narrow area of Mr. Ritzert's property and enters Mr. Madero's property at this point approximately, cuts across the northwest corner of Madero's property and then flows into Ms. Loehr's property, and then circles around her backyard. Let me back up, it comes across here, circles around Ms. Loehr's backyard and then enters the backyard of the Nugent's property where it goes into a 30 inch pipe that's maintained by the city. So, it comes across again from the Douglas' property, to Madero's corner, across Ms. Loehr's property, into the Nugent's property and into a 30 inch pipe. The next photograph will show you Mr. Madero preparing to connect onto Mr. Ritzert's 12 inch pipe. He's standing in a pit that's been partially excavated to accept the junction box that he's going to place. Then, in the next photograph you'll see the finished product. Here's that pit that Mr. Madero was standing in, and then the pipe runs down through this area of bare dirt, around this tree here, and now you're in Ms. Loehr's backyard, and this fence over here is the Nugent's backyard. The next photograph will show you a different view. This is standing up at the corner of Mrs. Loehr's backyard, and the pipe runs underneath this little footbridge and off to the right. That's showing you that the drain is completely filled in with dirt and pipe. The next photograph will show you another shot of that. Over here is, this is Mr. Madero's house, the drain enters at the corner of his property and then likewise runs around this tree and down underneath this footbridge and off towards the Nugent's. The next photograph will show you a different view. This is where it enters the Nugent's property. The pipe was terminated

at that point, and here's the remaining open channel that pre-existed the pipe. It comes out of this ten inch pipe that Mr. Madero placed in the drain, and the water then runs into the 30 inch concrete pipe that is maintained by the city. This again is Mr. Nugent's fence, and this is where the drain is on his property. I'm giving you this background because all of these folks are here in the audience. The next picture will show a rainfall event that occurred after the pipe was installed. On your screens it will be more clear than it is here on this, you've got a lot of background light here and there's raindrops obscuring the photograph itself, but that's the water coming out of Mr. Ritzert's backyard. This is backwater coming out of Mr. Ritzert's backyard that wasn't able to make it through the drain, tumbling over into Mr. Madero's backyard. This is where his pipe starts, and then running overland because it cannot make it all through the small pipe. The next, that's upstream of that point, this is all Mr. Ritzert's property underwater from the overland flow of water that's not making it through the drain any longer. This is actually the north line of Mr. Ritzert's property. I said earlier the Douglas', I meant the Jones', Douglas Jones and his wife own this property over here, and the water is actually backing up all the way across Mr. Ritzert's property and onto Douglas Jones and his wife's property. They're both here in the audience tonight. Then, here is the water that's running across Ms. Loehr's property. It's not able to pass through the ten inch diameter pipe, so there's a huge volume of water running overland. Remember the picture you previously saw of the tree and the footbridge and everything, it's running over top of the ground in a disorderly fashion because it can't make it through the drain. This is where, now, the discharge into Mr. Madero's 15, or ten inch pipe is approximately here, and now the water is back into the open channel that pre-existed the pipe. You can see that that volume of water that's generated by the storm can stay within the approximate banks of that channel, if there's no pipe there obstructing it, undersized pipe. Now, after a storm such as that, here's what the pipe that Mr. Madero placed looks like. All of the backfill has been washed off the top of it, and most of the bedding has been washed off of either side of it, and only remains underneath it. Here's a few more pictures in a series of that. Here's the footbridge that you saw earlier that had dirt fill on both sides of the footbridge over top of the pipe, now the pipe's exposed. The next picture will show—

Brenda Jeffers: That's it.

Bill Jeffers: Oh, is that it?

Brenda Jeffers: Uh-huh.

Bill Jeffers: Okay, that's it. So, basically, all that fill—

Brenda Jeffers: There was 15, I'm sorry, 16.

Bill Jeffers: That's the discharge into the pipe where the channel has not been filled by anything. All of that earthen fill that was overtop of the pipe that was placed by Mr. Madero has washed into the city storm water system. Let's see, now I'm going to go through a series of short paragraphs that refer to the statute itself. Indiana Code 36-9-27.4. I presented the evidence I've had, and the Board's responsibility is to make a finding. If after the hearing, under the statute, the Drainage Board finds that the obstruction of drain that is alleged in the petition does exist, and the removal of the obstruction will promote better drainage of the petitioner's land without causing unreasonable damage to the land of the respondent, the Drainage Board must find for the petitioner. The Board's determination, if the Drainage Board finds for the petitioner, the Board then must determine, based upon a preponderance of the

evidence, whether the obstruction of the drain was created intentionally by the respondent. Okay, then I have a comment here, status of the obstruction with regard to whether it's intentional or unintentional. The County Surveyor discovered, through conversations with Mr. Madero, Mr. Ritzert and Jerry Nugent, an affected property owner and neighbor at 6127 Ashbrooke Road, that Mr. Madero did intentionally install or cause to be installed the materials and objects that the County Surveyor found significantly impedes the flow of water through the drain. The duty of the Board, if the Drainage Board finds for the petitioner, that the obstruction of the drain was created intentionally by the respondent, the Board should enter an order directing the respondent to remove the obstruction at his own expense, or direct the County Surveyor to remove the obstruction at the expense of the respondent. Then I state my preference, the County Surveyor, based upon experience with matters of the same, or similar kind, suggest in order to avoid a lengthy and cumbersome process to collect the cost of removal and repair, that it is more prudent to order the respondent himself to remove or cause to be removed the obstruction and repair the damages to the drain. A final comment, appropriate and adequate repair of the damages to the drain includes, but may not be necessarily limited to restoring the open channel to a condition equal to or better than that that existed prior to the installation of the 100 feet of ten inch diameter pipe. I respectfully submit that as my report for the record.

President Kiefer: Thank you, Mr. Jeffers. That was a very thorough and very good report. Obviously, it seems very obvious to me that what the conclusion is on this, but I think it's important for us to hear from the parties here that want to either defend themselves or state otherwise.

Bill Jeffers: Absolutely.

President Kiefer: So, if Mr. Madero would like to address us first, that would be fine.

Gerardo Madero: Good evening. My name is Gerardo Madero. I live in 6128 Hickory Hill Lane. Where to start? Unfortunately, there's no pictures or any evidence of how that area was before I did all of that work. It was so badly overgrown, and it was just a marsh. Every time we had rain the water would puddle in that corner in my property. I have three daughters and they can't use the backyard because it gets really, really bad. Unfortunately, the neighbors that lived in Ms. Loehr's house previously didn't take good care of that open ditch. That was one of the things that we did, we didn't just install that pipe. If we go back here, we'll look at this, I'm sure you have a clearer image of this area, but this was just really, really...oh, thank you. This area here was really, really badly overgrown. Actually, we even went ahead and removed a section of fence that went from about this area all the way to the corner of my property back here. From here to about this area, this whole area was sectioned out, was divided, because they just wouldn't maintain it. There were a bunch of trees, even Mr. Jerry Nugent complained to my neighbor about rats and just (Inaudible) that grew there. So, one of the goals there was to clean up the area to where it would be clean enough so that my daughters could go out and play. My neighbor and friend, she has a five year old kid too, and she wouldn't allow him to go into the backyard just because it was so dangerous. That, yes, that's me, I would also like to point out that that pipe is trespassing into my property. That's noted in the same Surveyor's report that Mr. Bill Bivens supplied. So, I mean, yes, I did all that. Now, as far as using barrels cut in half, that first catch basin barrel was cut in half upon request from Mr. Ritzert. He wanted that first catch basin lid to be no more than an inch above his pipe so that any overflow water could keep flowing on the surface. If we—

Brenda Jeffers: (Inaudible. Not at microphone)

Gerardo Madero: Yep.

Brenda Jeffers: Thank you.

Gerardo Madero: So, really that's pretty much what I have to say. I mean, I apologized before if I created problems for anybody or if I upset anybody.

President Kiefer: Mr. Madero?

Gerardo Madero: Yes, go ahead.

President Kiefer: I don't think, you know, at least from my perspective, I don't think you had ill intent to cause harm on anybody. I just think that it was probably a plan that you thought would improve the situation, but, obviously from the testimony of the County Surveyor, it didn't. You know, I think it's really prudent when anybody does improvements onto, you know, drainage areas that they speak to the Surveyor, because he has a lot of knowledge, that department has much, much knowledge about drainage issues, and he could have probably told you from the beginning that it was maybe not a good plan for you to proceed that way. But, you know, that's what happened—

Gerardo Madero: Uh-huh.

President Kiefer: — and, you know, I would like to get comments from the other Commissioners, but as far as I'm concerned, I agree with the County Surveyor's comments and recommendations, but the other County Commissioners, members of the Drainage Board may have input.

Commissioner Melcher: I guess, basically, it's hard for us to understand, I think, that you would take on a project like this without checking with somebody, like an engineer to see how big the pipe should be and all of that. When you took that fence down, was that your fence?

Gerardo Madero: No, it was my neighbor's fence.

Commissioner Melcher: And they gave you the okay?

Gerardo Madero: She actually asked me if I could do it while we were, we were going to have the equipment there to dig the area and all of that. All of this was done with her consent. I wouldn't have put a foot on her property without her consent.

Commissioner Melcher: Did you get that in writing?

Gerardo Madero: No.

Commissioner Melcher: See, that's one thing that we have pushed here. Whenever, we can't even go on property and stuff without somebody, you know, giving us some kind of a waiver and saying it. So, if something happened down the road, she could say, well, I didn't do that or something. You always want to cover yourself, but, obviously, I don't know if it was working before with the ditch or not working. The only thing it does, it does look like you created a problem accidentally. I don't think you did it on purpose. So, I'll just wait to see what everybody has to say.

Gerardo Madero: I would like to make a couple more comments here. This was the finished product. About a week later, a week after this we had that huge storm on, what was it, August 2<sup>nd</sup>, I think. We had actually two and half, 2.3 inches of water and it was a flash flood announcement, a warning everywhere. That is when all of the, when all of the pipe got uncovered. That had just been days after we had finished it. We hadn't had the chance to have any erosion control in place. When I was actually cleaning the area to try to repair all of this damage is when Mr. Ritzert notified me that he had went ahead and filed the complaint and the request to remove the pipe. That's the reason I didn't go back and repair all of that, because I didn't want to put anymore effort and money in something that might be asked to be removed. I actually, I know this is probably pretty late to add those pictures in here, but I believe I sent copies to all of you guys. Two pictures that I took with my phone, when exactly all of that water was flowing, and two hours later where there was no water whatsoever. As bad as it might look here, we haven't had any standing water since I put that pipe in. That's really what I wanted to accomplish. I never intended to redesign the whole flood plain there, and to carry on with all of the water that could have accumulated everywhere, because all of the water that flows through my property is not just this one. It's the water that comes from all up here, all of that water flows directly into my property.

President Kiefer: And that's why it's even more important when you do a project like that, that you contact your County Surveyor, and, you know, like Commissioner Melcher said, you know, you need professional advice on projects like that, because it's just, there's a lot of waterflow and a lot of concerns that you may not be aware of.

Gerardo Madero: Uh-huh.

President Kiefer: You know, to move things along, because I still have testimony that, you know, other people might want to have.

Gerardo Madero: Yeah.

Commissioner Abell: I have a question. I do have a question of you, sir. How long have you owned your home?

Gerardo Madero: Three years in October.

Commissioner Abell: And, did you ever meet with all of your neighbors and say, I just moved in but we seem to have a problem? I mean, was this ever discussed before it was started?

Gerardo Madero: Yes, it was. When I bought the house the problem was evident. There were other neighbors living in Ms. Loehr's house. I was even going to start this project with him at that time, and he got relocated because of work. The house was vacant for a little bit, and then it sold. Ms. Loehr bought it, and the time it took for us to develop a comfortable enough relationship to talk about undertaking this project again, that's really that time span.

Commissioner Abell: Thank you.

President Kiefer: Again, thank you for your insight, and I just want to express that I don't personally think, from hearing your testimony, that you had intentions to harm people, but I think the ultimate effect was, it didn't handle the water, as per the



Surveyor's comments, the way it should have, even though I'm sure that wasn't your intent to harm other people. Thank you for your comments, and I know that there's some other people in the audience and they want to say something. You're welcome to make other public comment if somebody in the audience would like to.

Gerardo Madero: Thank you.

President Kiefer: Thank you.

Commissioner Abell: Mr. Jeffers, I would like to ask you a question. You can come on up, I'm just going to ask the Surveyor a question. Are these streets off of Mill Road? I'm trying to decide where this exactly is.

Bill Jeffers: This is Carriage Hills, Section G, it's directly north of Central High School.

Commissioner Abell: Yeah, that's what I thought.

Bill Jeffers: You know, all of those run right north off of Old Post Road, I believe it is, west of First Avenue and east of Kratzville.

Commissioner Abell: Okay, thank you.

Bill Jeffers: Just a couple of comments. Mr. Madero brought all of those things up when I spoke with him on the telephone during the investigation. I can see where he was being denied the full use of his property, his children were being denied the full use of the backyard because of a condition that existed long before he bought the property. Okay? The house wasn't built until 1986<sup>1</sup>. The pipe that Mr. Ritzert put in was put in in 1972. So, the plat of Carriage Hills, Section G was recorded in 1974, but the house itself wasn't built until 1986<sup>2</sup>. So, the pipe, yes, the pipe crosses the property line. Mr. Ritzert is aware of that at this point. Yes, Mr. Madero cleared and cleaned his neighbor's yard, his own yard, in good faith. I don't think he had any ill intent. I didn't detect any sort of ill intent from anyone involved in this. He did improve the land surface. The surface of the land has been improved, but it's simply a matter of an insufficiently sized pipe, improperly installed. There are alternatives to this that I might discuss, if it comes up. I'll leave it at that, at this point.

President Kiefer: Okay. Thank you.

Bill Jeffers: I think you're on the right track.

President Kiefer: Thank you. I'm assuming this is Mr. Ritzert? If you just want to state your name and address for the record.

Roy Ritzert: My name is Roy Ritzert. I live at 6407 Kratzville Road. Yes, this sewer that was put in, first of all, I had no idea that it was going to be installed until one Saturday morning I went out in my backyard and I seen this equipment, this contractor out there. So, I went down and talked to them, and I asked Mr. Madero

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<sup>1</sup>Correct date is 1976.

<sup>2</sup>Correct date is 1976.

what he was doing, because he had never asked me about or confronted me about he was wanting to put a sewer in. He proceeded to say that he was going to install a ten inch line to catch the water. I said, well, you're aware that my line is a 12 inch line, you're catching more water than what, you know, I have coming through my 12 inch line. That really needs to be a larger line. I asked him, I said, have you had this design engineered by anyone, or got approval from anyone, or permits? He said, no, he didn't need to because it was on his own property and he could do whatever he wanted to. I said, well, I didn't really want him to connect onto my pipe. I said, you can stay away from it a couple of feet, which I asked him to stay away from it a couple of feet so my water could flow on out and it wouldn't back up, and it would just run over the top of his pipe. He decided not to do that, and he went ahead and put that barrel in. I told him to cut it off an inch above my pipe, which he did cut it off, but then he piled dirt up around the pipe about two feet over that. So, which really didn't make any difference, so, you still have a backflow. The other thing is, yes, that ditch has been there, I put that pipe in in '72. It's been in 40 years, and the other neighbors can contest, or attest to the fact that there was never a problem like this before this was put in. The fact of the matter is, I shot an elevation of the outlet flow of my 12 inch pipe, and the inlet flow line of the 30 inch pipe at Jerry Nugent's property, and there's a little over one foot of fall in that distance. That ditch has been working fine for all of these years, the problem is, yes, there was a problem at Mr. Madero's property of the water standing there because they didn't clean the silt. You know, you've got to, when you've got a ditch, it will fill up with silt and grass and weeds, you have to clean that out in order to keep the flow running. If you look at one of the pictures that shows Mr. Jerry Nugent's ditch, his ditch, he's got a rock bank on it, grass, he keeps his ditch cleaned out and it flows fine. The reason that Mr. Madero had water in his backyard, is because he didn't keep the ditch cleaned out. Even though he'd been there three years, and maybe the other people before that didn't do it either, maybe they didn't care, but when he moved there, all he would have had to do is clean that ditch out to where the water would flow and he wouldn't have had water standing in his backyard. I, when I asked him about, you know, the size of the pipe and etcetera, I have had, I've had experience in putting in storm sewers, and I made him aware that this, you can't decrease a line and get proper flow through it, and he just decided to go ahead and do it anyhow. That's where it stands.

President Kiefer: Well, I think, you know, I understand what the situation is. I don't know if the other Commissioners have any other questions. Are there any other comments from other people in the audience? Come on forward. Thank you very much. I appreciate your comments.

Douglas Jones: I'm Douglas Jones. It's actually my parents house at 6415 Kratzville Road, which is the next property east of the Ritzert's, but I can attest to that since he's put in the 12 inch pipe in 1972, that we haven't had any problems until the ten inch pipe was installed. It was obvious there was a drainage problem.

President Kiefer: Okay, thank you very much. I appreciate that. Is there any other comment before we....okay.

Jerry Nugent: Hi, I'm Jerry Nugent. I live at 6127 Ashbrooke. My backyard is part of this situation. I've lived there 26 years. In 26 years it has never flooded. We had some problems when I first moved in, three owners ago of the house behind us, and we had somebody from the city come out and say it's your creek. We can't put a pipe in it because it's feasibly too expensive for the amount of people that were involved. They said you have permission to clean it out, weed eat it, take care of it.

It was done, we never had a problem since. It has never flooded. The first time I've ever seen water over Mr. Ritzert's field was three weeks, or two weeks, three weeks, whenever the big Monday night storm was. It's the hardest rain we've had. Now, Mr. Madero when he bought his property his kids couldn't play in the backyard either, it's a very steep lot. I have pictures if you want to see that. They would have to play down at the bottom by the fence to be where the water ran down from a hill into what I call the triangle, the three property areas. It came to my ditch, my portion of the ditch and the water ran. Also, there's been standing water in the ditch, I didn't want any part of this procedure, so I marked a stake at the creek approximately where my property line was, and I have pictures of that if you want to see it. All the debris that came washing out and went in the head wall has impeded the flow because of build up of rock and gravel, and I have pictures of it if you would like to see it.

Commissioner Abell: I would.

Jerry Nugent: There is standing water in the creek, there has been. The two catch basins, I was concerned about two things; number one, they never drain, they stayed full, and number two, there was no covering put over them until someone put a bridge in Annie's property over one of them to protect a child, a dog, anything from falling in. They've been left open.

President Kiefer: If you would like to bring those pictures up. If you have copies—

Jerry Nugent: I don't have copies, but I can share these with you.

President Kiefer: Yeah, that's fine, and then we can give those back to you after we look at them.

Brenda Jeffers: Mr. Nugent?

Jerry Nugent: Yes?

Brenda Jeffers: Are those the ones you brought to our office?

Jerry Nugent: Correct.

Brenda Jeffers: Okay, we have those, and if you want to show them now, then I can send them to them.

Jerry Nugent: Okay, there should be 21 total.

Brenda Jeffers: Okay, I can send them to the Commissioners then tomorrow.

President Kiefer: Okay.

Jerry Nugent: Here's the first rain storm we had, which was not a monsoon. It was a rain storm. There's pictures in here, just this is the pipe after it rained, and like I said, it was not a heavy downpour. There's the wall head, and you can see the gravel washing up and blocking the flow of the water. Now, this is my property here, you can see a post right here. That marks my property line. I asked Mr. Madero do not go past my property line, because I don't want this. You can see in the retaining tanks, this is at least 12 inches of water below these. They were not covered, all except one. Now there's where Mr. Ritzert's property, where the pipe, the 12 inch pipe comes through and you can see the ten inch pipe here. That's the first rain

storm. The second rain storm, you can see more pipe, it's quite obvious the pictures, this shows my property marker and the gravel that had been washed out, that didn't go in the system, that is stopping the flow. The day that they dug to install the pipe, as they followed, they started at Mr. Ritzert's pipe and started digging. Water followed the shovel as it dug. The last scoop they took out, the water ran, it went into the head pipe, and within a couple hours the creek was almost dry. This is the second. These pictures you have seen, it's what was in the Power Point presentation. Again, another blurred picture, but the system, the old system of a creek allowed all of this to go through and go in. One more comment that was made that I do want to clarify, the property owner behind me, Annie and I, went out and we cleaned for three days, all vines, everything that was discussed as cluttering the property, we cleaned it up and there was a large pile of debris that had collected from previous owners. All of that debris, these are the same as the Power Point, all of that debris was removed at her expense. It was taken away. The fence was cleared and it was removed. It was, everything was flat and level, there was no debris, everything was done, and it was just she and I. There was no other person involved in removing this. So, the ground was 100 percent better and cleaned up. Like I say, the retention areas scare me for a child or a dog to fall in one of them.

President Kiefer: Well, thank you very much. Is there any different, anything different from other people in the audience? Do you have different testimony other than that?

Jerry Nugent: Well, one more thing very quickly.

President Kiefer: Sure, sure.

Jerry Nugent: All this was to prevent daughters from getting mosquito bites and getting hurt. I understand this. One e-mail dated August 14<sup>th</sup>, hazardous conditions for my daughter. One e-mail dated October 12<sup>th</sup> of section five, part two, stagnant water allows mosquito reproduction. With this West Nile virus scare that we've had intermittent throughout the city and county, something that used to be a dry creek now has standing water in it, because it can't move with retention ponds holding it, and everything else. The old way was the best way. We never had a problem when it was a creek.

President Kiefer: I understand, and I'm not disagreeing with you on that.

Jerry Nugent: I thank you for your time.

President Kiefer: Thank you. One more person.

Ann Loehr: I'm Ann, and I live at 6126 Hickory Hill Lane. My property is the one in the middle. I just want to make sure that I'm not charged for all of this. I just want it put back the way it was. I paid \$600 and worked with Jerry for three days to clean up the brush and to get the trees trimmed properly. I saved up that money to pay for that. I agreed to all of this under false pretenses. I was told it was legal. I was told that, I was told stories about Roy Ritzert and Jerry behind me that were false. Now that I've talked to them a lot more I've learned a lot about who they are as people. I just don't want to be, I just feel like it should be cleaned up and put back the way it was. That's all I'm asking for. I don't want to be charged for it. I don't think it's fair.

President Kiefer: Okay, thank you so much for your testimony. Okay, I guess, Mr. Jeffers would like to make some final comments.

Bill Jeffers: It is in the city, not the county, but the statute doesn't differentiate. It assigns the responsibility to the County Drainage Board, and the County Surveyor to move forward with the resolution of it. The city does not participate or maintain in any way on ditches or pipes that aren't in drainage easements. This is not in a drainage easement. That's why they begged off. Okay?

President Kiefer: I understand.

Bill Jeffers: I don't mind, personally I don't mind a citizen of the city, who also pays county taxes, and who also is a shareholder in the overall government, to come and ask for guidance of some sort, as Commissioner Kiefer suggested. I wouldn't mind them to come and ask me ahead of time before they do a project, do you think this will work? I don't mind that. It's not our responsibility to consult with them, but I'll, you know—

President Kiefer: I knew you would feel that way, and that's why I suggested that—

Bill Jeffers: Right.

President Kiefer: — because it's easier to prevent a mistake than to fix a mistake.

Bill Jeffers: Right, but I would suggest in this case, if the Board orders the removal of the pipe and the backfill and everything else, and the restoration of the open channel, that would be my recommendation and my suggestion, I would suggest that the open channel be returned to a grassy, open channel. A grassy waterway. Then I would suggest that anyone who was interested in fine tuning that channel to what would be a superior, adequate conveyance channel to consult with Natural Resource Conservation Service, the NRCS, which is housed in there with the SWCD, the Soil and Water Conservation District, in North Park next to the Pie Pan in their new office, their new, beautiful office that the Commissioners provided them. To go by there and pick up specifications for a grassy waterway with an under drain, a four inch under drain, which is set below the flow line of the ditch by a foot or so, and off to one side two or three feet, and then it has laterals that come over intermittently and pick up standing water and take it to the under drain, which then would be piped all the way down to that 30 inch city pipe and discharged down there. That will dry up the excess water that might want to puddle in the bottom of a grassy waterway. You can breed a thousand mosquitos in a bottlecap full of water. I am very concerned about Mr. Madero's children and anyone else that would come in contact with a mosquito that might carry West Nile virus or encephalitis or anything else. That can all be addressed with appropriate and adequate drainage facilities. This particular thing, although I don't believe there was any ill intent, I believe it was inappropriate for the application, and there are appropriate ways to address it. As I said, NRCS and SWCD can provide those specifications, and a private contractor can put it in.

President Kiefer: Okay, thank you, Mr. Jeffers. I'm going to ask our County Attorney to read off what I would consider a motion that, I mean, a proposed motion that I ask one of you two to make after he reads this.

Joe Harrison, Jr.: First of all, pursuant to Mr. Jeffers' report, and by statute this is all, this procedure is all State statute on an obstruction and a petition for the removal of an obstruction if there's a finding of such an obstruction. In this instance, is there a motion by the Drainage Board finding that an obstruction of a drain exists as set forth in the petition filed by Mr. Ritzert? So, is there a motion to that effect?

Commissioner Melcher: Yes.

Joe Harrison, Jr.: So, okay. So, that's a motion. Is there a second?

Commissioner Abell: I'll second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Joe Harrison, Jr.: Now, that that finding has been made, is there a motion finding that the respondent, Mr. Madero, created the obstruction intentionally?

Commissioner Abell: So moved.

Joe Harrison, Jr.: Is there a second?

Commissioner Melcher: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Joe Harrison, Jr.: Is there a motion requiring and ordering the respondent, Mr. Madero, to restore, I'm sorry, to remove the obstruction, and to restore the area as an open drain, an open channel, as it was prior to the installation of the pipe at his own expense?

President Kiefer: Under discussion I would say that also—

Joe Harrison, Jr.: Well—

President Kiefer: – he would meet with Mr. Jeffers and Soil and Water Conservation District and other necessary professionals to get some guidance, but agree that it is at his expense.

Joe Harrison, Jr.: What I would prefer to maybe do is just, maybe we can have another, maybe a fourth motion.

President Kiefer: Well, that wasn't necessarily part of the motion, that was just under discussion that–

Joe Harrison, Jr.: Right.

President Kiefer: – you know.

Joe Harrison, Jr.: But, certainly, a motion ordering that he remove the obstruction and restore the open channel as it was.

Commissioner Melcher: So, you want–

Joe Harrison, Jr.: At his own expense.

Commissioner Melcher: But, I think Bill said we could have alternatives if–

Joe Harrison, Jr.: That will be the next one.

Commissioner Melcher: Okay. Yes.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Joe Harrison, Jr.: Then, finally, is there a motion requiring Mr. Madero to remove the obstruction and restore the open channel within the next 60 or 90 days? How many days do you suggest?

Bill Jeffers: The real problem is that in order to seed it and mulch it, it would have to be done with dormant seeding at this point in the year. So, that's where you want the advice of NRCS and SWCD as to appropriate dormant seeding.

Joe Harrison, Jr.: And, that would be part of the motion. I was going to include it in with it.

Bill Jeffers: I don't see how you could leave it over the winter and go to normal seasonal seeding next spring. I think it has to be done in 60 to 90 days.

Joe Harrison, Jr.: Okay.

Bill Jeffers: So, that's where you want to go with seeking advice from the appropriate agencies as to dormant seeding.

President Kiefer: So, we can add that to the motion?

Joe Harrison, Jr.: Yes. So, again, is there a motion requiring that Mr. Madero remove the obstruction and restore the open channel as it was and to—

President Kiefer: Seek advice.

Joe Harrison, Jr.: — seek advice and communicate with Mr. Jeffers' office, and, I guess, the Soil and Water Conservation people to complete the task within the next—

Commissioner Abell: 60 days.

Joe Harrison, Jr.: 60 days?

Commissioner Melcher: With the dormant seeding?

Joe Harrison, Jr.: Yes, whatever is recommended, whatever that may be.

Commissioner Melcher: Yes, I'll make that motion.

Commissioner Abell: Well, I'll second, but I have a question.

Joe Harrison, Jr.: Okay.

Commissioner Abell: I think it's very advisable that he contact Soil and Water—

Joe Harrison, Jr.: Right.

Commissioner Abell: — and, but—

Joe Harrison, Jr.: We're suggesting that he do that.

Commissioner Abell: You didn't say that it had to be, you said suggested.

Joe Harrison, Jr.: Uh-huh.

Commissioner Abell: Okay, because he could hire an engineering company and have them come out and do the whole thing.

Joe Harrison, Jr.: That's correct, but we're suggesting that he contact others, the professionals Soil and Water, maybe Mr. Jeffers' office, an engineer, whomever to complete—



Bill Jeffers: (Inaudible) Farm Supply.

Joe Harrison, Jr.: –yeah, to complete the task within the next 60 days.

President Kiefer: So, we have a first and a second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Joe Harrison, Jr.: Then, in the next, I guess, Drainage Board meeting in 60 days, Mr. Jeffers could report back to us. If he has anything within 30 days, report back to us as well with any progress. In the past, have we, I know many years ago we had a written determination that put that in writing. Has that been done in recent years as well, Mr. Jeffers? Just kind of formalizing what was done, or are the minutes sufficient?

Bill Jeffers: I would think, it was done in such an orderly fashion in the last five minutes, that you could take the minutes, with a cover letter and say that's the order, that's the determination of the Board and the order given.

Joe Harrison, Jr.: Okay, that's fine.

Commissioner Melcher: So, when you get the minutes you'll send the letter?

Joe Harrison, Jr.: Yes, either I'll communicate with Mr. Jeffers–

Commissioner Melcher: Okay.

Joe Harrison, Jr.: – and we'll either send it together, or we'll send it from the Drainage Board.

President Kiefer: Okay, that is it for that case. Thank you very much for everyone being here to talk about that case. We're going to move on to the next one, which is an update.

Bill Jeffers: I do apologize for misspelling and mispronouncing a couple of names in there. I should have had it right in front of me. I'm sorry. To Douglas Jones and Mr. Ritzert.

**Update on Guoyuan Huang's Petition**

President Kiefer: If you want to give us an update on the next one. I can't even pronounce the next one.

Bill Jeffers: Okay, basically, I want to try to do this very quickly, just give you an update and then ask your advice. I'm sure Joe will ask me to give you a recommendation. I wish I could, and maybe I can after we go through it briefly, but Mr. Huang and his wife are here in the audience. They've been asking me to move forward with their petition, which they filed over a year ago. The petition was the same form and process as the one you just completed. They were asking the Drainage Board to order the removal of an obstruction that existed on the land, that they alleged to exist on the land of Candace Huston, consisting of a swimming pool, earthen fill, a retaining wall, etcetera that encroached into a drainage easement and caused poor drainage of the Huang's property. I went out there several times, and in viewing the site and talking to the engineer who had designed the site at Andy Easley Engineering and viewing surroundings on each side of the site, I could not detect that there was ever a drain in that easement. To my estimation, and from looking at the original drainage plan and the original grading plan, it appeared to me that the, Ms. Huston's property sits up high on top of a hill, the Huang's property sits down below it, facing the next street, and the land was just straight graded downhill originally from Ms. Huston's patio, straight down the hill towards the Huang's property, and then at the Huang's property there was grading done to take the water around each side of the house in accordance with HUD grading details, it's part of our, all part of our drainage code. It's incorporated into our drainage code, and the building, the developer is supposed to accomplish that, the home builder is supposed to accomplish that grading and carry the water around each side of the Huang's house. I assumed that it had all been done. So, however, the fact remains that Candace Huston went to the Area Plan Commission and applied for a permit to install a swimming pool in her backyard. She was given a site improvement permit. The County Surveyor's office was not notified of that. The site improvement permit was attached to a sketch. The sketch only showed the swimming pool, it did not show what they were going to do with the excavated soil that comes out of the hole that the swimming pool is put into. It's an in ground pool. It does not show the fence around the swimming pool, even though the APC code requires a six foot fence around all swimming pools, it did not show the fence. Obviously, when you build a pool into a hillside, the pool has to be level or the water doesn't stay in it, so anyone knows that when you build a pool into a pool side you're going to have to have a retaining wall on the downhill side of it. It didn't show the retaining wall on the permit application. The retaining wall ended up about four feet into the seven foot wide drainage easement. So, you have an encroachment of a drainage easement. So, whether I say not to handle it under this statute because there's no drain that was obstructed, you still would have to handle it under the encroachment of a drainage easement without written permission from the Drainage Board, which is a violation of the drainage code. So, since they either violated the statute, or they violated the drainage code, it was left to me to try to negotiate a settlement, because when you enter into, when you encroach a drainage easement you should go to the Drainage Board and enter into an encroachment agreement, which requires that you hire an engineer to show how you're going to handle the water, how you're going to handle the drainage that should have been handled in the drainage easement. You have to submit an application, along with a certificate of insurance, to indemnify the county against any damages, and to ensure that anyone who might be hurt while they're using the swimming pool in a drainage easement isn't going to sue us and that type

of thing, blah, blah, blah, blah, blah. So, this wasn't done. So, I encouraged Ms. Huston to hire an engineer to accomplish that. She hired Easley Engineering because they had done the original grading plan. They prepared a very sophisticated drainage plan that would have captured all the water that runs off of the swimming pool, the swimming pool deck, the retaining wall, and the earth that she took out of, or had taken out by Foxx Pools, had taken out of the hole that the swimming pool is in, placed all the dirt over here on the other side of her yard and caused more rapid drainage down into the Huang's property. This plan would have captured that excess water and taken it to the north and cast it off into Tim Scheu's Fawn Creek development. We got an easement from Tim Scheu to take it down into his street system. I thought we had a plan. Well, Ms. Huston didn't pay for the engineering. So, the plan is not available to us, because until it's paid for it remains property of Easley Engineering, rightfully so. Then, on July 4, 2012 her house burned, and it's in reconstruction, under insurance. The insurance company says they're not responsible for anything but rebuilding the house. They're not responsible for the condition of the property in any other way, shape or form. So, I tried, Ms. Huston also plead economic hardship on account of the cost of the plan, the development of the plan and the cost to implement the plan was too much for her. So, I've tried to downsize the plan and make some substitutions of materials and methods in such a way that would make it less expensive. The Huang's have insisted continually that, oh, by the way, you guys approved the plan when Mr. Shofstall presented it to you, it was approved. The Huang's now say we want to go with the approved plan, as approved, no modifications, which kind of puts me in a position of not being able to negotiate a lesser cost, you know, a lower cost plan to try to bring it out of being an economic hardship. However, in the meantime, after I said, in writing several times to the Huang's, that I would not take it forward under the obstruction statute because no drain was obstructed because no drain existed, they now insist that there previously was a swale in that easement, even though I can find no evidence of it from my end of the investigation. Now, their neighbor, Bob Koressel, has come forward and told me, yes, there was a swale in the drain. So, that would appear to take it back into the statutory process, which I had hoped it wouldn't go there. I had hoped it would stay in the code enforcement process, the drainage code enforcement process, and we would insist that any encroachment of a drainage easement would be accompanied by a drainage encroachment agreement that included an engineered plan. That would go for both Ms. Huston and her swimming pool, retaining wall and all other materials that are inside the drainage easement without written permission from this Board, as well as the fence, the yard barn and any other objects that might be inside that same easement on the Huang's side on their property. That they have a plan as to accommodating adequate drainage, engineered for them, or move it. So, now you're down to the point of how we're going to do it. Are we going to go through the statutory process of addressing an alleged obstruction in a drain, which I did not feel existed, but now we have two people attesting that it did? Or, are we going to go through an enforcement process under the drainage code whereby you order the removal of the swimming pool, the wall, the soil, the rock, the yard barn, the fence and everything else and simply restore the grading plan as it was shown on the original drawings that were approved back in 1999 when the subdivision was built? No one is going to be satisfied in the outcome of this, whichever process we go through. I don't see how anyone will ever be 100 percent satisfied, and there doesn't seem to be any compromise available.

President Kiefer: This seems to be another example of people doing things without properly investigating the proper way to do it, therefore causing a lot of grief and headache to other people and themselves. What is the pleasure of the Commission? Any thoughts from—

Commissioner Abell: I think she should have to pay Andy Easley and follow their plan. We accepted that plan, we thought that was a good....I'm sorry she's got what she considers to be a financial hardship, but maybe she needs to mortgage her house to pay for this work, but—

President Kiefer: She hired somebody too to do some work.

Commissioner Abell: She put in a swimming pool. I mean, it isn't like she had to put in a disabled ramp, she put in a swimming pool.

Bill Jeffers: Well, apparently she plead that things have changed since that time. She had someone living in the home that was helping, and now that person has moved out of the home. I don't really want to go into it.

President Kiefer: No.

Bill Jeffers: I guess, that would be talking about financial stuff, but she plead an economic hardship. So, that's why I wanted to, I really wanted to keep it out of the statutory process, because the statutory process has a consideration without causing undo damage to the property of the respondent. But, if you take it through the code enforcement process—

President Kiefer: I like that too, code enforcement process.

Bill Jeffers: – you have a violation that can be prosecuted. The infringement of the drainage easement without written permission of the Drainage Board, clearly stated on the plat, clearly stated in the covenants and restrictions, to which all mortgage holders, well, to which all persons who sign with a lending institution have to sign the document saying that they agree to the covenants and restrictions.

President Kiefer: Now, let me ask this, Joe, there's, we go through the process and we find that they, if we find that, you know, there was this obstruction and they don't have the money to remove the pool and remove the fence or the yard barn and all of that stuff, how do we—

Joe Harrison, Jr.: Well, I've got to look at the code, because I don't know about that, but, I think, tonight's not the night to decide anything, because Mrs. Huston is not here.

Bill Jeffers: That is correct.

Joe Harrison, Jr.: But, I think, we would have to notice her up to appear at a future Drainage Board meeting. I think, on the issue that you're discussing, even though there's been a petition filed for the removal of an obstruction, it does require a drain. It appears that the second option that you're contending, or suggesting is pretty clear. I would prefer that she be, you know, noticed to appear at a meeting, a future Drainage Board meeting, the issue can be addressed as far as what she may have to do or not have to do, based upon your suggestion, and if there's something that she's required to do and she doesn't do it, we'll have to look at the code, but, I presume, someone else could do it. Then, if that was not paid, I presume there's probably a way of going to court or putting a lien against the property or something along those lines, but we'll just have to look at the code. I don't have it in front of me, so I don't know.

Bill Jeffers: Well, I felt obligated to bring it to you, as I did, as disorganized as it may have sounded or rambling as it may have sounded, for the benefit of the Huang's, who are here, and to let them see whether or not it's going to move forward. I hope that that satisfies them that it is moving forward, even though the wheels have ground slowly in this way.

President Kiefer: Well, I would just like to add that I appreciate the concern the Huang's have, and I agree that we need to move on this and set a date, and we can get this resolved for them. Hopefully, we can get that accomplished. Can we set a date now then?

Commissioner Melcher: I was going to ask that. Can we just do it at the next Drainage Board meeting?

Joe Harrison, Jr.: Well, I know we're going to have to have sufficient notice, and maybe we can do it November 13<sup>th</sup> or the 20<sup>th</sup>. We can't do it at the special meeting on the whatever.

Commissioner Melcher: No, I know that.

Joe Harrison, Jr.: Yeah, we could do it at one of the two, it's just whichever one you think would be sufficient time.

Bill Jeffers: Well, today's the 16<sup>th</sup>, if I can locate a mailing address for Ms. Huston, because she's obviously not living in her home right now.

Joe Harrison, Jr.: Why don't we do it the 20<sup>th</sup>.

President Kiefer: That gives you enough time—

Bill Jeffers: Okay.

President Kiefer: —and then we can get this accomplished. Then, you know, the Huang's you can be assured that we are working on this and that it's a priority.

Bill Jeffers: What's the week of Thanksgiving?

Madelyn Grayson: The 20<sup>th</sup>.

Bill Jeffers: The 20<sup>th</sup>?

Joe Harrison, Jr.: It's the 24<sup>th</sup>, maybe. No, the 22<sup>nd</sup> is Thanksgiving.

Brenda Jeffers: So, that is two days before Thanksgiving.

Joe Harrison, Jr.: The 20<sup>th</sup> is two days before Thanksgiving.

Bill Jeffers: Okay.

Commissioner Abell: Were you going somewhere?

Brenda Jeffers: I wanted to.

Bill Jeffers: Well—

Commissioner Abell: I think we can do it on the 13<sup>th</sup>.

Joe Harrison, Jr.: If that's what you want to do. I just didn't know if you had enough time.

Bill Jeffers: Let's shoot for the 13<sup>th</sup>.

Joe Harrison, Jr.: Okay, that's fine.

Commissioner Abell: I'm sure she's having her mail forwarded.

Bill Jeffers: Oh, I think I can, I have her claims agent—

Joe Harrison, Jr.: Just send it by certified notice.

Bill Jeffers: — I have contact with her claims agent. I'll go that way.

Joe Harrison, Jr.: That's good.

Bill Jeffers: Okay, thank you.

President Kiefer: Okay, thank you. Is there claims from ditch contractors? Oh, I'm sorry.

Joe Harrison, Jr.: No, no, no, no.

President Kiefer: Before, I guess, I'll just ask before we move on. Huang's, did you have any comments you wanted to make, or are you satisfied?

Joe Harrison, Jr.: Just tell them to be here on the 13<sup>th</sup>.

Guoyuan Huang: I just wanted to thank you all (Inaudible. Not at microphone.) We really suffered. Our property has suffered (Inaudible. Not at microphone.)

Joe Harrison, Jr.: Will you be in town on November 13<sup>th</sup>?

President Kiefer: Maybe you can come up to the mic?

Joe Harrison, Jr.: Yeah, real fast.

Guoyuan Huang: November 13<sup>th</sup>?

Joe Harrison, Jr.: Yes.

Guoyuan Huang: That's fine.

Joe Harrison, Jr.: Okay.

President Kiefer: Hey, Mr. and Mrs. Huang, thank you very much. We really appreciate your time.

**Ditch Maintenance Claims**

President Kiefer: Okay, now we can move on.

Bill Jeffers: I have no claims.

**Other Business**

Bill Jeffers: No other business to bring before the Board at this time.

President Kiefer: Okay.

Commissioner Melcher: Move for adjournment.

Commissioner Abell: Second.

President Kiefer: We are adjourned.

(The meeting was adjourned at 7:42 p.m.)

**Those in Attendance:**

Joe Kiefer  
Bill Jeffers  
Gerardo Madero  
Jerry Nugent  
Brenda Jeffers

Stephen Melcher  
Joe Harrison, Jr.  
Roy Ritzert  
Ann Loehr  
Others Unidentified

Marsha Abell  
Madelyn Grayson  
Douglas Jones  
Guoyuan Huang  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
NOVEMBER 13, 2012**

The Vanderburgh County Drainage Board met in session this 13<sup>th</sup> day of November, 2012 at 6:08 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for November 13, 2012.

**Pledge of Allegiance**

President Kiefer: I would like to ask Linda Jeffers to lead us in the Pledge of Allegiance. Linda Freeman, sorry about that.

Linda Freeman: Oh, that would be funny.

President Kiefer: That's a Freudian slip.

(The Pledge of Allegiance was given.)

President Kiefer: I would like to apologize to the respective spouses for that slip.

Linda Freeman: It's actually still Linda Freeman, but, you know I'm also known as Linda Freeman-Schaffstein.

**Approval of the October 16, 2012 Meeting Minutes**

President Kiefer: I think, before we approve the minutes of the previous meeting, Madelyn, if you could point out any corrections or clarifications.

Linda Freeman: We had some missteps.

Madelyn Grayson: There were a couple of corrections that were pointed out from the October 16, 2012 Drainage Board minutes. On page seven, Bill Jeffers was speaking about the address at 6128 Hickory Hill Lane owned by Mr. Madero, and he stated twice that the house was built in 1986. It's been brought to our attention that it was built in 1976. I guess, I can confirm that and put a footnote at the bottom of the page.

Commissioner Abell: Actually, that's not an error in the minutes. That's an error in what Mr., the minutes are, as I'm sure your attorney will tell us, the minutes are what was actually said at the meeting, and that's actually what Bill said.

Madelyn Grayson: That is what he said.

Joe Harrison, Jr.: So, he's saying he should have said something else, and we can note that.

Madelyn Grayson: I can put a footnote saying the correct date of the house was built in 1976 or something to that extent.



Commissioner Abell: But, this won't be corrected, because the minutes are correct.

Madelyn Grayson: There was one other item, the tape flipped and there was a portion of it that was inaudible, but this gentleman was watching channel nine and gave me the additional language that was to be in there. I can go back and check that on our internet as well, because we record this and post that to the internet, and verify that, Ms. Ann Loehr was speaking and she said in the minutes, "I agree to", and then the tape flipped and so there was nothing after that point. He said that on channel nine it said, "I agree to this and was misled under false pretenses by Mr. Madero." So, that's a pretty–

President Kiefer: Well, that is a correction to the minutes.

Madelyn Grayson: I can go back and confirm all of this and bring it back to you at the next Drainage Board meeting.

Joe Harrison, Jr.: Yeah, I want you to do that.

President Kiefer: Let's make the correction, and let's approve that at the next meeting, how about that?

Commissioner Abell: I move that we table the approval of the minutes until our next meeting.

Commissioner Melcher: I'll second.

President Kiefer: Yeah. All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0.)**

Commissioner Melcher: We could go back to channel nine and they could play that so you could get it.

<b>Approval of Ditch Maintenance Claims</b>
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Linda Freeman: Can we do the claims? So that way we get that on there.

President Kiefer: Yeah, so we have claims to be approved.

Linda Freeman: We have blue claims that I've submitted to Madelyn, they've been inspected and cleared by the Surveyor's office. We would ask that you submit for payment.

President Kiefer: Is there a motion to approve?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Okay, roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

<b>Other Business</b>
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President Kiefer: Is there other business, before we move into the major discussion?

Linda Freeman: Not that I'm aware of, unless someone else is wanting to speak.

Roy Ritzert: An update on the Ritzert petition?

Linda Freeman: On the Ritzert-Madero petition. I don't think that was—

President Kiefer: Oh, he has an update he wants to offer, is that what he is saying?

Linda Freeman: No, he's asking if there is an update.

President Kiefer: Oh, I don't have an update.

Linda Freeman: No.

Commissioner Melcher: No, the only thing that we got e-mailed from Bill on this—

Linda Freeman: Is the Huang-Huston.

Commissioner Melcher: No, this is Mr. Madero's property.

Linda Freeman: Oh, okay, that one.

Joe Harrison, Jr.: I can tell you this, there was a question by Mr. Madero to me regarding whether or not he could go on Ms. Loehr's property bid work on the removal of the obstruction without her approval. She has not approved a form that he submitted to her. He wanted to know if the Commissioners, or the Drainage Board had said it was okay to go on her property. Well, what the Drainage Board did indicate was that the obstruction needs to be corrected. It needs to be removed, but I would suggest that Mr. Madero try to get—

Linda Freeman: Permission.

Joe Harrison, Jr.: — a signed right-of-entry to go on her property. If she won't do it, I don't know how he could go on her property and remove the obstruction. That's my,

I'm sorry, hopefully, I don't know if you could hear me on all of that, but that's my thought on it is that really he needs to have a—

Linda Freeman: He doesn't want to trespass.

Joe Harrison, Jr.: — no, he needs to get a right-of-entry, even though this Board did indicate that they wanted the obstruction removed, I think the—

Linda Freeman: But, there's the problem that—

Joe Harrison, Jr.: — Ms. Loehr needs to know he's going to be coming on, and give him permission to come on and make the corrections.

Linda Freeman: Right, it's on her property.

Commissioner Melcher: So, it's actually between them two?

Joe Harrison, Jr.: It's between those two.

Commissioner Melcher: If they have to get an attorney, that's between them two.

Joe Harrison, Jr.: That's between them, and if Mr. Madero comes back to the Board and says, guess what, I couldn't do it because she didn't let me come on her property, I guess we could listen to that. Right?

President Kiefer: Right.

Linda Freeman: And explore other possibilities for an improvement of the problem.

Joe Harrison, Jr.: Yeah, but, again, it just appears to me that it might be prudent to get a right-of-entry.

Linda Freeman: Yeah.

Joe Harrison, Jr.: Okay.

President Kiefer: Okay, well, perhaps the gentleman wanted to—

Linda Freeman: Was there something he wanted to—

President Kiefer: Did you want to make—

Joe Harrison, Jr.: I really don't want to talk about that matter because it's not on the agenda, I just wanted to give you, and I'll give the Board an update on the issue that we heard from Mr. Madero. I know that he's making plans to try to correct the obstruction right now. He's been dealing with the Surveyor's office, and, hopefully the plan that he has in mind the Surveyor is comfortable with it and it will move on. So, and if you have any questions you might want to contact the Surveyor's office just to make sure that he's on board with what they're planning on doing.

**Huang-Huston Obstruction Petition Update:  
Discussion of Easement Encroachments**

President Kiefer: Okay, now we can, if it's okay we'll move on to the discussion of Huang-Huston easement encroachments.

Linda Freeman: Yes, Ms. Huston just approached our office at approximately a quarter till six, is that about right, a half an hour ago?

Candie Huston: I was here earlier.

Linda Freeman: Okay, she was down here, but then her and Justin Shofstall did come down to the office and were talking to Bill, but from what I understand there really is not a final solution at this point. With both parties, with the encroachment in the drainage easement, I'm not sure how we should proceed. They basically need to come to an agreement, but that hasn't been a possibility at this point. We're just looking at an encroachment in the easement, and we're kind of—

Joe Harrison, Jr.: That's the matter on the agenda this evening is the drainage encroachment—

Linda Freeman: Easement encroachment, right.

Joe Harrison, Jr.: — by both parties.

Linda Freeman: Right, it's a public utility and drainage easement.

Joe Harrison, Jr.: If you can, can you enlighten the Drainage Board just quickly on the nature of the encroachment?

Linda Freeman: Ms. Huston has an encroachment with her rip rap and her concrete deck, and the Huang's have an encroachment with their fence. Then, I think she also has a portion of her fence too.

Joe Harrison, Jr.: Now, you don't have any photos or anything for us this evening?

Linda Freeman: I do not. No, you guys have seen this many times prior. So, it's been something that's been on the docket before.

Joe Harrison, Jr.: Ms. Huston's house recently burned to the ground.

Linda Freeman: Burned down July 4<sup>th</sup>—

Joe Harrison, Jr.: Okay.

Linda Freeman: — and we honestly didn't know what would be transpiring from that point, but apparently she is rebuilding.

Joe Harrison, Jr.: And she can come up in a minute—

Linda Freeman: Right.

Joe Harrison, Jr.: — briefly.

Linda Freeman: She's here and also the Huang's.

Joe Harrison, Jr.: As far as the encroachments, I'm assuming the encroachments did not burn.

Linda Freeman: No.

Joe Harrison, Jr.: Okay. So, the encroachments are there?

Linda Freeman: Yes.

Joe Harrison, Jr.: And, that would be the pool deck area and—

Linda Freeman: Some rip rap and fencing—

Joe Harrison, Jr.: — rip rap.

Linda Freeman: — and then with the Huang's some fencing, from what I understand.

Joe Harrison, Jr.: Just so I know, are they, do they back up into each other?

Linda Freeman: I think they're attached to each other, the fences? No, oh, okay. Sorry, they are not.

Joe Harrison, Jr.: Their two properties abut each other?

Linda Freeman: Yes, they abut with a seven and a half foot public utility and drainage easement on each. One property owner is in Ashley Place, Section A, and the other one is in Ashley Place, Section B, with both lots having a seven and a half foot public utility easement and drainage easement on each. So, a total of 15.

Joe Harrison, Jr.: Okay. I believe it was Mr. Jeffers' opinion that there was not an obstruction of a watercourse with respect to the two properties.

Linda Freeman: Yes.

Joe Harrison, Jr.: Now, why is that again?

Linda Freeman: Because there was not a drainage swale or drainage structure that was actually implemented in between those two lots.

Joe Harrison, Jr.: So, he's saying that the statute that we have in Indiana, that this Board has had an opportunity to deal with from time to time, even the Madero matter that and the Ritzert matter was an obstruction of a drainage, of a watercourse.

Linda Freeman: Right.

Joe Harrison, Jr.: Or a drain.

Linda Freeman: A watercourse or a drain, yes.

Joe Harrison, Jr.: This is a situation where Mr. Jeffers has determined that there is no obstruction—

Linda Freeman: There is not an obstruction that we're looking at.

Joe Harrison, Jr.: – of a drain or watercourse, is that correct?

Linda Freeman: Yes, we're looking at encroachments in the easements.

Joe Harrison, Jr.: The Huang's did file a petition originally, that I think this Board may have heard many moons ago–

Linda Freeman: Yes.

Joe Harrison, Jr.: – on that issue, and nothing was done to that, because, I think it was eventually determined that there was no obstruction. Is that correct?

Linda Freeman: Yes.

Joe Harrison, Jr.: Okay, so, we're here today to deal with drainage easement encroachments by both parties.

Linda Freeman: Right, because Bill had not found any corroborating evidence that there was a drainage swale in the easement. So, we don't have an obstruction.

Joe Harrison, Jr.: Do you know what Mrs., or Ms. Huston's intent is this evening?

Linda Freeman: Not exactly, because that was just, like I said, approximately a half an hour ago–

Joe Harrison, Jr.: But, she was asked to be here.

Linda Freeman: Yes.

Joe Harrison, Jr.: Okay.

President Kiefer: Well, maybe Ms. Huston can give us some testimony or comment. State your name and address for the record, please.

Candie Huston: My name is Candie Huston, and currently I'm at a post office box, but my address is 742 Trillium Way, Evansville, Indiana 47712.

President Kiefer: Okay. Do you want to just tell us what your intentions are, as far as removing the encroachment, or correcting the problem?

Candie Huston: I would like to get an encroachment, I don't know what it's called.

Linda Freeman: Agreement.

Candie Huston: Agreement, in order to keep the things that are in the drainage area there.

Joe Harrison, Jr.: And, what about, now you don't have a plan in your hands today, correct? A drainage plan.

Candie Huston: Yes, I do.

Joe Harrison, Jr.: Okay, do you have it with you right now?

Candie Huston: I don't have anything in paper—

Joe Harrison, Jr.: Okay, you don't have it with you right now?

Candie Huston: No, but I can tell you that by going out there today that I had told my builders not to go to the west of my house, which would be towards the Huang's home. That any drainage needed to go to the north and the south of the home, so that we would not have any water going into their yard.

Joe Harrison, Jr.: When do you anticipate, is it okay if I ask her?

President Kiefer: Yeah.

Joe Harrison, Jr.: When do you anticipate you would have a drainage plan to be reviewed by the Surveyor's office that they could communicate to this Board about what you're intending to do?

Candie Huston: After what Bill had told me a while ago, he said that there was no swale and that everything runs down to Aster Lane. So, my thought is that that's where all my water drainage goes to is the bottom of the hill. I sit on the top of a hill. Mr. Huang's home is at the bottom of my hill. I don't know how to stop the water from coming to his home, other than changing the ways that the down spouts go. I also included, when I had the pool put in, was to have one of the drainage pipes go to the north of my home, which is attached to a sump pump. Other than that, it's all regular water that goes down to his house.

Joe Harrison, Jr.: Now, again, I'm going to ask you one more time, when do you think you will have a plan in hand that you can give to the Surveyor's office from a licensed engineer for them to review to communicate to the Drainage Board?

Candie Huston: I had one in hand at one time, but I couldn't afford Andy Easley.

Joe Harrison, Jr.: Okay.

Candie Huston: But, if I could continue to keep with Andy Easley then he actually has the plan was intact. He had talked to me earlier about that, and had explained to everybody about how the water flows from Aster, from Trillium Way to Aster Lane, and onto the other subdivision to my north.

Joe Harrison, Jr.: Okay, so as far as when you might be able to get your hands on that plan, I guess, it boils down to when you can pay for the plan, is that correct?

Candie Huston: Yeah.

Joe Harrison, Jr.: Is that yes?

Candie Huston: Yes. He had actually said that I could start making payments on it. I'm going to put (Inaudible) five dollars a month payments on it.

Joe Harrison, Jr.: Okay, when do you think, I'm only going to ask you one more time, when are you going to have the plan in your hand?

Candie Huston: I can probably have the plan in my hand as soon as I make a payment.

Joe Harrison, Jr.: Okay, that's not the answer I wanted, but that's the answer you gave.

President Kiefer: I don't think we can do anything, I mean, we'll need to know a date like, November whatever, or December, a date, a physical—

Candie Huston: I'm not even in my house yet. I don't know.

President Kiefer: Okay, so you don't know. Okay.

Candie Huston: My house is not due to be done until late December.

Joe Harrison, Jr.: Okay, so is it under construction now?

Candie Huston: Yeah.

Joe Harrison, Jr.: Yes?

Candie Huston: Yes.

Joe Harrison, Jr.: Okay, and it's supposed to be done, you said, next year (Inaudible).

Candie Huston: No, I'm actually hoping before Christmas.

Joe Harrison, Jr.: This year?

Candie Huston: Yes.

Joe Harrison, Jr.: Okay. Do you have anything else to say?

Candie Huston: I don't know what else to say.

Joe Harrison, Jr.: Okay.

President Kiefer: Well, good luck with getting your home completed. I know it's a big, big hassle.

Candie Huston: I lost everything.

President Kiefer: Yeah, and hopefully you'll get all of that together soon for you. I know that's got to be really disturbing.

Commissioner Melcher: I am a little confused. Don't take this wrong, I'm just talking here, I'm a little confused because in the beginning, and I know my memory's short, you were getting a plan from Easley—

Candie Huston: Yeah.

Commissioner Melcher: — because you put your swimming pool in the easement, which is causing water to drain down to the other family. They waited a while before



they were able to get their attorney to get an agreement signed, so your work being done by Andy and some contractor was going to be able to allow them, you know, to get on their property to get this stuff done, if I remember right. I guess, where I'm confused, I never knew you were building a home, I thought when you added a swimming pool, now tonight it sounds like you built a swimming pool and then you built your house.

Candie Huston: No.

Linda Freeman: The house burned down.

Commissioner Melcher: Oh, okay. I forgot about the house burning down. That's what confused me.

Joe Harrison, Jr.: The house is being rebuilt now, but the pool and the deck and the rip rap are still there.

Candie Huston: Yes.

Joe Harrison, Jr.: They didn't, that didn't get burned.

Commissioner Melcher: Okay.

Joe Harrison, Jr.: So, she's hoping to get into the house before the end of the year, so she said. I thought you had said next year.

Candie Huston: No.

Joe Harrison, Jr.: But, she doesn't have a drainage plan, and really for this Board to consider a plan by her, and a plan by the Huang's, Mr. Jeffers' office would have to see it.

Commissioner Melcher: I don't think the Huang's had a plan. They were only supposed to allow her, help me out here, Linda, do you remember any of this?

Candie Huston: They had told me that the Huang's had to remove their fence in order for me to go in, on the encroachment—

Joe Harrison, Jr.: Right.

Candie Huston: —but that hasn't been done yet either.

Joe Harrison, Jr.: Because she doesn't have her plan.

Commissioner Melcher: No, because we haven't got a drainage...I wouldn't move a fence yet neither.

Candie Huston: Well, he did remove portions of it, and then now it's all up again.

Joe Harrison, Jr.: Yeah. I'll just say this, both have some issues here, both parties. I mean, the Huang's do have some of their items within the drainage easement. I don't know how much, but there something within the drainage easement.

Commissioner Melcher: It's a yard barn, I think.

Joe Harrison, Jr.: It may be part of a fence. I mean, we don't know for sure, but I think part of a fence from what Mrs., from what Ms. Freeman indicated. Mrs., Ms. Huston obviously has some things in the drainage easement, and because we don't have a plan today to help Mr. Jeffers sort through, or his office sort through the whole thing. As to whether or not they could agree on the flow of the drainage, etcetera, with Mr. Shofstall here from Mr. Easley's office to help talk about it on the record, I'm not to sure we can do anything with this issue today. I think it's a civil matter between the two of them. If a plan comes in hand, maybe to the Surveyor's office, maybe we can come back and address it at that time, but right now we're speculating. I don't think there's anything we can do for either one. I mean, we don't have, I don't think this Board has the power to deal with this issue without plans. You've got to have plans.

Commissioner Melcher: No, I understand that, but help me with the swimming pool deal, because the swimming pool is what created all of this.

Commissioner Abell: Absolutely.

Joe Harrison, Jr.: Unfortunately, the swimming pool was approved by the Area Plan Commission.

Commissioner Melcher: I understand.

Joe Harrison, Jr.: And, so they got a permit for a pool. It's that it was, the deck, I suppose, wasn't noted on the plan, like it should have been probably, so the deck is encroaching into the drainage easement. The pool's not, the deck is, and I think some rip rap is. So, you know, they had apparently started working on a plan to maybe have the Drainage Board agree to the encroachments, so long as the drainage in the future went a different way away from the Huang's. The Huang's may had to have maybe moved some things as well.

Commissioner Melcher: So, basically we don't have a drainage plan yet.

Joe Harrison, Jr.: Yeah.

President Kiefer: So, this is really fairly simple, either A she moves the deck and the rip rap out of the drainage easement, or B she comes with a plan to show how to do the drainage so it's not going to be a problem.

Joe Harrison, Jr.: The other thing is, the Huang's are going to have to take care of some of the matters within the drainage easement as well, to make it a fair deal, but, again, I think that--

Guoyuan Huang: Can I say something?

Joe Harrison, Jr.: --yeah, hang on one second.

Guoyuan Huang: Okay.

President Kiefer: Can we put a time line on this? Tell them like we want something done--

Commissioner Abell: Yeah, that's what I'm thinking.

President Kiefer: I don't want them to come back next month and we'll have the same issue.

Commissioner Melcher: Yeah, because, nobody should be out for this long. Nobody.

Joe Harrison, Jr.: But, I don't think, I mean, how can we approve an encroachment without a plan?

President Kiefer: No, no, no, I'm not saying approve an encroachment, but somehow we need to say, hey, look by December whatever, you need to come back with a plan.

Joe Harrison, Jr.: Or, it's done.

President Kiefer: Or, it's done, yeah.

Commissioner Abell: What do you mean, it's done?

Joe Harrison, Jr.: There's nothing we can do. They're going to have to handle the matter between the two of them.

Commissioner Abell: You know, I don't think, I just don't think it's right that someone builds a pool, forces water down on their neighbors and we say there's nothing we can do.

President Kiefer: We can have the encroachment, can we not have the encroachment removed?

Linda Freeman: Well, we're not talking about an obstruction.

Joe Harrison, Jr.: That's the problem.

Linda Freeman: Because, Bill did not find any corroborating evidence to say that an obstruction existed.

President Kiefer: But, what do you, how do you enforce it? That's my question.

Joe Harrison, Jr.: That's between the two parties. That's yard barns all over town.

Linda Freeman: Right, he has not, because up until as recent as September 2012 he had no corroborating testimony that a swale existed in the drainage easement between the Huang and Huston properties, and because the originally approved drainage plan for the Ashley Place Subdivision showed no swale to be constructed at that location, he determined that no drain or watercourse existed, therefore, no obstruction could exist in the non-existent drain and the petition could not be processed, under Indiana Code 36-9-27 (Inaudible).

President Kiefer: So, Linda, in essence, you can, Bill—

Linda Freeman: Unless there's an obstruction—

President Kiefer: You can have an encroachment as long as there's no obstruction is what you're saying?

Linda Freeman: Basically, yes.

Joe Harrison, Jr.: Between the two of them—

Linda Freeman: And that's, you know—

President Kiefer: But, this Board has no enforcement power to have it removed if there's not an obstruction?

Joe Harrison, Jr.: Right.

Linda Freeman: Right.

President Kiefer: Is that clear for the other Commissioners?

Joe Harrison, Jr.: What this Board has tried to do is try to facilitate or mediate, I think—

Linda Freeman: Mediate, yes, be the arbitrator.

Joe Harrison, Jr.: —the dispute, and try to come up with a plan where the Board would recognize the encroachments, agree to them, so long as the water flow was properly directed in the future.

Linda Freeman: Right.

President Kiefer: I'm okay with that, if we can put a time line, you know, let's say at our December meeting that she has a plan, that she brings to our December meeting.

Joe Harrison, Jr.: Alright, we've got two meetings in December, so.

Candie Huston: Can I say something?

Joe Harrison, Jr.: Sure.

Candie Huston: I've tried to work with him, and I've asked him that I could put like an approved piping so that we could take care of the water off of his lawn, which today I took a picture and there was no water on his lawn. He refused for me to do that for him.

President Kiefer: I understand that, but, I mean, I think what we're trying to do is get a drainage plan from you for the encroachment, so that way the Surveyor can review it, and we can feel comfortable to approve an encroachment agreement.

Candie Huston: So, basically, if I talk to Justin Shofstall and he gives you the information that he gave you before then that would be okay?

Commissioner Melcher: As long as you're going to go through with that plan.

Joe Harrison, Jr.: Right.

Commissioner Melcher: In other words, just because we have a plan don't mean, you've got to go through with that plan. Do you understand what we're saying?

President Kiefer: So, you say you're going to have drainage come off your house a certain way—

Candie Huston: I've already done that.

President Kiefer: —to proceed, you know, and we can verify that, then, I guess, it's, that's part of the plan.

Linda Freeman: There again, it's the plan.

Joe Harrison, Jr.: Yeah, that's right.

President Kiefer: I think the first step is, I think by, let's say, what's our December meeting dates.

Linda Freeman: The 4<sup>th</sup> and 18<sup>th</sup>, I think.

President Kiefer: How about by the 18<sup>th</sup>, that should give you plenty of time to get that. Are the other Commissioners comfortable with that? If she has a plan by the 18<sup>th</sup>?

Commissioner Abell: Well, I think—

Joe Harrison, Jr.: She's got to have it here.

President Kiefer: She's got to have it here.

Commissioner Abell: Well, we've got to have it, because we've got an (Inaudible) that's been going on for a long time. It's unfortunate your house burned down, but Mr. Huang has a problem, and, you know—

Candie Huston: He had that problem before they moved in. The other people that lived there, they didn't disclose that information to them when he moved into that house, because they had drainage problems before they moved into that house. We had spoke about it, that's the reason why he put the fence up in the first place, because he thought he could take the water away with the fence.

President Kiefer: Well, I don't think this is a court. So, you know, I think what's important to us is that you get this plan. I was just asking the fellow Commissioners the 4<sup>th</sup> or the 18<sup>th</sup>, what's your pleasure?

Commissioner Abell: The 18<sup>th</sup> is fine.

Commissioner Melcher: Yeah, the 18<sup>th</sup>, but our patience are running out.

President Kiefer: Yeah, so have that plan by the 18<sup>th</sup>, otherwise as our legal counsel has advised us, it's going to be a civil case. So, you really need to have that.

Candie Huston: I just need him to work with me in order to get through the drainage encroachment that they need to take their fence down. I have no problem with anything else.

Commissioner Melcher: Well, I think once we have a plan, and we get everybody up here on the record saying who's going to do what, but we've got to have a plan first,

and you've got to follow through on that plan, because if they started taking their fence down and then they put it back up because you weren't moving, I would have done the same thing.

President Kiefer: Okay, well, thank you, Ms. Huston for talking. I think we're going to let the Huang's tell us what their situation is. Thank you.

Candie Huston: Thank you.

President Kiefer: Be sure to come back on the 18<sup>th</sup> with a plan.

Guoyuan Huang: My name is Guoyuan Huang, I live 741 Sunflower Circle, Evansville. So, I just, today I was just surprised, because of everything, and the first one that I want to say as for the fence, okay, encroachment fence, we already say this one since last year, we will remove that one as long as it solves the problem. So, that's what (Inaudible) I receive her e-mail says what last year, I approve the plan to resolve the drainage problems. At that time I already say that, we will remove that. I already said that. Actually, I already removed most of it, but until rather recently, this is before July, okay, before July, I put it back, okay, I put it back. Why, because today I will (Inaudible) that. Today says, according to Surveyor's e-mail, okay, I believe everybody received, it's October 8<sup>th</sup>, and it said, it actually asked her, Ms. Huston, to face the Board and present a plan how to solve the problems. As we have expressed since last year, we just want to solve the problems. The drainage problems that's damaging our property, and our neighbors, and this is what, and the cost of by Huston's swimming pool and related placed so much earthen fills and the hoses, the drainage hoses, and the dirt is raised like that, okay, this high. All around the ground is like this, and actually there is a swale over there, okay, over there, but as we expressed previously many times, we just want to solve the problems. Okay, I don't want to argue about obstruction or not. So, that's why today I just planned to come here and listen, according to Surveyor's e-mail, okay, and only just he said let her come here and present to you the plan of how to solve the problems. But, not discuss about this is a hearing, about if this is an obstruction or not an obstruction. Okay, and actually we want to (Inaudible) just go this way. If this hearing is for obstruction or not obstruction, I have evidence, a lot of evidence there. Okay, I can present to you so you can consider whether or not this is an obstruction or not an obstruction.

President Kiefer: Well, I'll leave that up to the experts in the Surveyor's office. I mean—

Guoyuan Huang: So, I don't want to do this wrong, we just want to solve the problems. We already agreed to just let her come here and we just want to solve the problems.

President Kiefer: Okay, we can safely say we've expressed ourselves very clearly to Ms. Huston. She understands that she needs to have this plan by the 18<sup>th</sup>, and if she brings that plan and we can proceed ahead and resolve the problem.

Guoyuan Huang: Okay, but I would again say that the encroachment our fence is actually (Inaudible) there's many people through this way, okay. You can see that, many people through this way. As I say, we will remove, we would be happy to remove. Actually, we already expressed that last year.

Commissioner Melcher: I know you already expressed that, that's why I volunteered it awhile ago. You might have heard me. I said, if it gets fixed then you'll move the fence.

Guoyuan Huang: Yes. I already received that. I will remove that definitely. I already prepare for that. So, (Inaudible) you know that October of last year (Inaudible) already approve the plan, okay, already approve the plan, but later on says that she has hardship economically, so this plan was delayed. You know all that and delayed, that was October last year, October. So, we now already spent about \$500 for that, for the plan. So, I don't think this is the correct way, because we always followed the Surveyor's advice, always followed the Drainage Board's advice, always followed that. So, you remember that day last year, October 11<sup>th</sup>, I was standing here and then you asked me and prepare an agreement. We spend about \$500 so far already to make such a document, but after we submitted that document she says she is unable to do that, and after that no anymore response from the office, okay. We just wait until this May or June, I will submit to you, these letters to you, you already see that. That's the situation.

President Kiefer: Okay, thank you very much.

Guoyuan Huang: Thank you.

Commissioner Abell: Linda, I have a question.

Linda Freeman: Yes, Ma'am.

Commissioner Abell: When you put something in, like a swimming pool, concrete, where there used to be grass, doesn't that cause more water to flow down because there's nothing there to absorb it?

Linda Freeman: Yes, but that's then typically taken into consideration of the plan of the drainage when you develop the property, because you're looking at post-development versus pre-development. So, that's something that's typically kind of looked at and the drainage swales and things would cover that. So, it's not like they were created just because of the swimming pool. Basically, what we're looking at here is the encroachment of the fence, the yard barn, the other fence, the rip rap, the decking, the things that were created because she did put the pool in. So, it's not necessarily that she's created—

Commissioner Abell: Area Plan doesn't take that into consideration when they award this—

Linda Freeman: Apparently not. They didn't have anything on the plan that was submitted to them for the, well, I'm sorry, I gave it to Mr. Melcher.

Commissioner Melcher: Well, I know, I was gonna, do you got more of these?

Linda Freeman: Actually, I think I do. Actually the way she's drawn, that this plan is drawn that was submitted in 2009 is that the seven and a half foot easement was not going to be encroached by the pool.

Commissioner Abell: But, it is.

Linda Freeman: But, they didn't take into account....no, not the pool.

Commissioner Abell: Oh,

Linda Freeman: The decking, the fence—

Commissioner Abell: Oh, yeah.

President Kiefer: So, they just didn't know about the decking, they thought they were putting in a pool with no decking.

Linda Freeman: Right, but how many pools get put in without some kind of decking. You have to be able to go around your pool to clean it, and then you also have to have a six foot impassable, is it six foot—

Commissioner Abell: I was going to say it has to have a fence, yeah.

Linda Freeman: They didn't, you know, apparently they didn't take that into account.

Joe Harrison, Jr.: This is just an administrative approval in the office that was approved. It didn't go to a meeting.

Linda Freeman: There was a previous above ground pool and that plan had shown that it was a 15 foot easement, which is erroneous. So, we've got several things that have just have been compounded. The original, back in 2000, she had an above ground pool and they were showing it was a 15 foot easement, well, it was a 15 foot total from each property, you know.

Commissioner Melcher: Yeah, it's half and half.

Linda Freeman: But, there again, you know, we've got another encroachment problem that they didn't address at that time. So, you know, I'm not sure.

Commissioner Abell: What a mess.

Linda Freeman: Yeah, and we don't have the police powers to remove things that are encroached. Now, by State statute we do have the obstruction situation that is enforceable.

Commissioner Abell: That's what I was asking Joe, where's the or else.

Joe Harrison, Jr.: Where's the drain?

Linda Freeman: I don't see a drain or anything that—

Joe Harrison, Jr.: Or a watercourse.

Linda Freeman: — or a watercourse that would have an obstruction.

Commissioner Melcher: Well, then they're also talking about water coming—

Linda Freeman: Yeah, where she's discharging—

Commissioner Melcher: Where she's discharging.



Linda Freeman: That's a civil matter that she's causing property damage to them. It's not something that this Board can address, right?

Joe Harrison, Jr.: Not at this time.

Linda Freeman: Right.

Joe Harrison, Jr.: Not without a plan.

Linda Freeman: Yeah, right, so, it's like I drove through your front yard and I caused damage so you're going to sue me.

President Kiefer: Linda, we're back to waiting on this plan to see how she's going to handle the drainage.

Linda Freeman: Yeah, so that she can get the drainage encroachment.

President Kiefer: Once that's accomplished, then it seems like they can move ahead and have some direction. Now, if she doesn't bring that plan, if she fails to bring a plan—

Linda Freeman: Right.

President Kiefer: —then this may be a civil case—

Linda Freeman: Right, and the plan that they do refer to—

President Kiefer: — but, it may be the Huang's need to sue her, or it needs to be a civil case for the courts.

Linda Freeman: Right.

Joe Harrison, Jr.: The Board may have some ordinance powers as well.

President Kiefer: But, we need to check into that. Our counsel is going to look into that, so we'll know the answers to that.

Commissioner Melcher: I think the Board needs to be involved in this, because if nothing else it's the Area Plan, which is part of us, allowed this to happen, So, we've got to help them, because I was going to take that plan and go to Area Plan and find out who did that.

Linda Freeman: Yeah, well, yeah, you can have that. I mean, I've got it scanned in my computer, and I just happened, when she came in the office, we were discussing things and she had made a statement, and I said, well, I think it was on the plan. So, I printed it out so we could look at it.

Joe Harrison, Jr.: But, the items in the encroachment did not, are not on—

Linda Freeman: There's nothing shown as an encroachment on that plan.

Commissioner Abell: This is just like me getting, going to Area Plan, getting a permit to build a garage—

Linda Freeman: Right.

Commissioner Abell: – and I build a two car garage–

Linda Freeman: Instead of a one car garage.

Commissioner Abell: –but the plan showed a one car, but I decided to build a two.

Linda Freeman: Right.

Commissioner Abell: So, my second garage was illegal.

Linda Freeman: They didn't show, that–

Commissioner Abell: They didn't show the decking or, it just shows the pool.

Linda Freeman: Jeff Happe came in with a set of plans for a pool, and he was showing the deck and things, and he was showing that it was encroaching, whereas this is just showing a rectangle for a pool–

Commissioner Abell: Right.

Linda Freeman: –and if they didn't ask questions, is that pool, is that rectangle representing the deck and the pool, or is that just the pool? If they would have investigated slightly, if they would have asked questions, or if they would have, you know, I mean, that's kind of what I just thought of now, maybe they thought that rectangle was depicting the deck and the pool.

Commissioner Abell: Yeah, well–

Linda Freeman: It's just depicting the pool itself.

Commissioner Abell: –because it says footprint coverage.

Linda Freeman: Right. So, when you're talking footprint, that would typically be–

Commissioner Abell: That would be everything.

Linda Freeman: –the decking and everything else.

President Kiefer: It sounds like this plan was not, maybe not built according to, they built more like what Commissioner Abell said, you know, more than what they were permitted to build.

Linda Freeman: Correct.

Joe Harrison, Jr.: Well, yeah, there may be an Area Plan issue as well.

Madelyn Grayson: Can I keep those? Or can you e-mail them to me?

Linda Freeman: Yes.

Commissioner Abell: Never mind, Linda, I'll just pass them down to her.

President Kiefer: I hate to say this, but December 18<sup>th</sup> is when we're going to have to re-address this issue.

Linda Freeman: When I started investigating–

Commissioner Abell: Mr. Huang has something he wants to say.

Guoyuan Huang: (Inaudible. Not at microphone.)

Linda Freeman: He's saying that he cannot attend the December the 18<sup>th</sup> meeting, but that would be, basically we're waiting for her to bring a plan, and if she brings a plan then she would be moving forward with a drainage encroachment agreement.

President Kiefer: And, hopefully, she's not going to wait to bring this on the 18<sup>th</sup>. You need to get this plan in the hands of–

Linda Freeman: The Surveyor's office.

President Kiefer: – the Surveyor's office prior to, how much time prior to, Linda?

Linda Freeman: It's not, it shouldn't be that complicated, so, I mean, if she could get it to us a couple, like the Friday before or the Monday, that Monday morning at the latest, you know, but if you're wanting to–

President Kiefer: Well, what's the pleasure of the Drainage Board?

Commissioner Melcher: I think we ought to go ahead and hear it on the 18<sup>th</sup>, because if there's going to be something else, we'll do it at the very next Drainage Board meeting and he might be able to be there then.

President Kiefer: Mr. Huang, are you comfortable with us proceeding to hear this? I hate to delay this thing until January, I would like to still proceed on the 18<sup>th</sup> and then we can bring you back at the following meeting–

Joe Harrison, Jr.: In January.

President Kiefer: –in January.

Guoyuan Huang: I was just wanting to say that–

Commissioner Abell: Would you come up to the microphone?

Linda Freeman: So it's on the record, sir.

Guoyuan Huang: All we really want is to solve the problems, the drainage problems. That's all we want.

President Kiefer: That's why I wanted to ask if you were comfortable.

Guoyuan Huang: Not if it is an obstruction (Inaudible) that is what I really want at this point. We are not interested in that. Okay, but if Drainage Board decide to (Inaudible) and held a hearing about this obstruction or not obstruction we will plan to do that. I will have evidence.

Joe Harrison, Jr.: We're not going to do that.

Commissioner Abell: We're not going to do that.

Guoyuan Huang: That's what I say, so, that's what I say. We're just interested in what solve the drainage problems. We believe this is caused by the swimming pool and the (Inaudible) and gradings and originally over there as Bill said that. There is original, there is a swale there.

President Kiefer: Right, and, Mr. Huang, what I want to do is proceed ahead, if you don't mind, I know you are going to be out of town, I would like to proceed ahead so that way we keep this thing moving forward, and require her to submit this plan by the 18<sup>th</sup> to us, but to the Surveyor's office at least one full business day before this meeting in December.

Joe Harrison, Jr.: Yeah, she'll have to give the drainage plan to the Surveyor's office by December 17<sup>th</sup>.

Guoyuan Huang: I feel comfortable, I would agree with that.

Commissioner Abell: Okay. Anything further beyond that, you'll be involved in.

Joe Harrison, Jr.: Then, Mr. Jeffers can give us a report at the meeting on the 18<sup>th</sup> regarding the plan, and if we have to have a further hearing we can do that in January, but at January in our meeting if something can't be worked out before that time what we'll do is the Board will meet in January and discuss what kind of plan is out there, if she has the plan, and whether you can go along with it or not. So, you can agree to it. We want to make sure that you're agreeable to any plan that they have.

Guoyuan Huang: So, we meet December 18<sup>th</sup>?

Joe Harrison, Jr.: Well, if you're not here, you'll have to be agreeable, you'll have—

Linda Freeman: We could forward it to him.

Joe Harrison, Jr.: You could forward it to him.

Guoyuan Huang: So, you could go ahead and (Inaudible) and let her present her plans on December—

Linda Freeman: 18<sup>th</sup>.

Guoyuan Huang: —18th, that's fine for me.

Joe Harrison, Jr.: Okay.

Guoyuan Huang: After that just give me the word—

Joe Harrison, Jr.: And it may be that you have to come back in January to talk about it further for some reason.

Guoyuan Huang: That's fine.

Joe Harrison, Jr.: Okay.

Guoyuan Huang: So, I really appreciate all of you, your time and assistance on this issue.

President Kiefer: Thank you very much. Before I ask for public comment, I just want to say to Ms. Huston, please get this taken care of. We want that plan. I just want to urge you to get that taken care of.

**Public Comment**

President Kiefer: Is there any other public comment? If not, I'll look for a motion to adjourn.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor aye.

All Commissioners: Aye.

President Kiefer: We are adjourned.

(The meeting was adjourned at 6:53 p.m.)

**Those in Attendance:**

Joe Kiefer	Stephen Melcher
Linda Freeman	Joe Harrison, Jr.
Roy Ritzert	Candie Huston
Others Unidentified	Members of Media

Marsha Abell  
Madelyn Grayson  
Guoyuan Huang

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
DECEMBER 4, 2012**

The Vanderburgh County Drainage Board met in session this 4<sup>th</sup> day of December, 2012 at 6:40 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board, December 4, 2012.

**Pledge of Allegiance**

President Kiefer: If Commissioner Melcher would lead us in the Pledge, to keep it consistent tonight.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you, Commissioner Melcher.

**Approval of Previous Minutes:  
October 16, 2012 Drainage Board Meeting Minutes  
November 13, 2012 Drainage Board Meeting Minutes**

President Kiefer: I would like to ask for a motion to approve minutes of the previous meeting. I'm assuming we've got—

Madelyn Grayson: We've October 16, 2012 and November 13, 2012.

President Kiefer: There really wasn't any correction made, was it? I mean, because it was correct the first time, it's just somebody wanted a note added or something.

Madelyn Grayson: There was two footnotes added, just stating that the house was built in 19—

Bill Jeffers: I had given the wrong date.

Madelyn Grayson: 1976 instead of '86.

Bill Jeffers: I had given the wrong date of construction on that house.

President Kiefer: Okay.

Madelyn Grayson: And then there was a little bit of verbiage added that Ms. Loehr made the comment on. I went back and was able to pull that off the internet and listen to it fully, and there was a few words added to that.

President Kiefer: Okay, so I ask for a motion to approve the minutes of the previous meetings.

Commissioner Abell: So moved.

Commissioner Melcher: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0)**

President Kiefer: Okay, so approved.

### **Drainage Plans**

President Kiefer: Drainage plans?

Bill Jeffers: I don't have any drainage plans this evening.

President Kiefer: Well, that's good.

### **Discussion of Restoration of Ditch in Anna Loehr's Property**

President Kiefer: Okay, we move into discussion of the restoration of the ditch then.

Bill Jeffers: Yes, sir. That was on the agenda in order that you receive an update, a progress report. I believe Mr. Harrison received some communications from Mr. Madero, or Mr. Madero's counsel that needed to be entered into the record.

President Kiefer: Joe, are you going to share that then?

Joe Harrison, Jr.: I'll read it and just have you guys pass it around and enter it into the record.

Commissioner Abell: He's gotten an attorney then, huh?

Joe Harrison, Jr.: Yes, although his attorney, Mr. Madero wrote the letter and then has a proposal from a construction company. This is what the letter says, it's to the Vanderburgh County Drainage Board, dated December 3, 2012, Roy Ritzert drainage obstruction petition:

"Dear Commissioners, since I will be traveling on December 4<sup>th</sup> and unable to attend the Drainage Board meeting to be held on that date, I am writing this letter to provide an update as to the status of my compliance with the Board's October 16, 2012 order. I have obtained a quote from Heidorn Construction to remove the pipe and to restore Ms. Loehr's property to its prior condition and have attached a copy for your review. This quote incorporates the suggestions of various professionals that I consulted in preparing to comply with the Board's order. Specifically it incorporates the suggestions received from SWCD employee, Mark Abell, regarding seeding. Although I'm willing and ready to proceed with having my contractor complete the work, I am not being afforded access to Ms. Loehr's property for that purpose. Ms. Loehr has placed conditions on my having access that are over and beyond what the Board required in its order. Specifically, those additional conditions include requiring that the work be done pursuant to a drainage plan to be approved by Mr. Jeffers. She is also requiring that I install a chain link fence separating her property from mine.

Since restoration of Ms. Loehr's property is not a "project" as defined in Chapter 13.04 of the Stormwater Drainage Control code, compliance with a formal drainage plan is not required and would greatly increase my cost of compliance. Similarly, installation of a chain link fence has nothing to do with drainage and should not be considered a part of the Board's order. I would like nothing more than to have this matter concluded, and stand ready to have my contractor complete the work as soon as I am provided access. As an alternative, I am also willing to write a check to the Drainage Board or your designated payee in the amount of \$1,050 so that the Board can have the work done directly. In conclusion, I stand ready to comply with the Board's order, but respectfully request your assistance in gaining access to Ms. Loehr's property or in my being able to pay the contract amount in full satisfaction of my obligations. Thank you in advance for that assistance. Gerardo Madero."

I have a copy of the proposal and contract from Heidorn, and I would like to enter this letter into the record, let you all review the same. Also, I think Ms. Loehr had some questions about some ruts that were on her property. Her attorney indicated to me in an e-mail, "Please note that I have spoken with Mr. Madero this afternoon. He confirms that he will ensure that his contractor smooth out any ruts that were caused by the installation of the pipe, as well as those caused by the corrective work." So, he's indicating that he will take care of those issues as well. I think Mr. Jeffers has a few comments regarding Mr. Madero's letter, and then, hopefully we can proceed ahead and this matter will be resolved in the near future.

President Kiefer: So, what do we need to do, just make a motion to approve to accept this?

Joe Harrison, Jr.: Well, why don't we listen, why don't we hear Mr. Jeffers' comments, and then maybe we can go from there.

President Kiefer: Okay.

Joe Harrison, Jr.: Let's see what he has to say.

Bill Jeffers: Well, I guess, you all are used to the way I operate over the years, and, I guess, I've just become habituated to the fact that whenever we have any kind of project we follow a plan. So, I just naturally assume that when you restore an open drain that you would have some sort of a plan that complied with some standards that the county usually follows, whether it be for a new subdivision or a reconstruction of a regulated drain, or just any work that we would do. Those standards are generally either going to be found in the road and street standards that John Stoll and the County Engineer's publish, or they're going to be found in the drainage code that we follow for construction of new subdivisions, or they're going to be found in the general specifications and special provisions that we publish each January and February as part of our legal drain maintenance. They refer to certain practices of how you lay the banks back and how you apply seeds and everything. Well, under I.C. 36-9-27.4, which is the statute we're operating under, an Indiana property owner may file a petition with the Drainage Board alleging an obstruction of a drain or watercourse and ask the county Drainage Board to order the removal of the obstruction, if the removal will cause better drainage of the petitioner's land. It's my opinion that this statute makes certain omissions which cripple the ability of the county Drainage Board to fully process a petition to a conclusion that I would feel



is adequate and appropriate to the issues at the project site. Additionally, the statute assigns the county Drainage Board to process petitions whether the affected property is inside the city or out in the county's normal jurisdiction. Thus, the Board and the County Surveyor may find themselves at a disadvantage as to recommending or enforcing county standards for drainage tile installations or open waterway construction in accordance with our county drainage code. Furthermore, the statute does not provide any specific directions for the physical work itself, other than removing objects and materials from the drain that are found to constitute an obstruction. Also pertinent to the case under discussion, the statute does not address appropriate disposal of materials constituting the obstruction, and does not provide guidance or requirements in regard to the finished condition of the restored drain after the removal of the obstruction. Of course, our specifications do all of that, as I explained earlier. Personally I find these omissions unacceptable if a respondent is able to legally maneuver around the intent of the County Surveyor's recommendations to adequately and appropriately restore an open channel to a serviceable condition. At the hearing I went into some details suggesting that Mr. Madero consult with and use recommendations for re-establishing an open grassy waterway available from Natural Resource Conservation Service and Soil and Water Conservation District. Those are the standards that we use as part of our annual ditch maintenance program. My suggestions were simply made for Mr. Madero to follow our customary best management practices so that his finished project would provide a serviceable grassy waterway, which I assumed he would prefer to a muddy, open trench. You can read my suggestions in the minutes that you just approved for that hearing. In the future, the Board may wish to include in their order adequate specifications for restoring a drain or a watercourse in accordance with county standards, but that's not the case in this particular situation. Mr. Madero and his legal counsel correctly argue that the Board's order only requires and orders Mr. Madero to remove the obstruction and restore the area, as an open channel, as it was prior to the installation of the pipe. In a separate motion, at the same hearing, the Board additionally instructed Mr. Madero to seek the advice of SWCD, as to seeding recommendations, which he did. So, I will leave it between Mr. Madero and SWCD, or NRCS, as to appropriate grass seeding and mulching procedures. As to the exact condition of the open channel prior to its obstruction, I have no knowledge or evidence in that regard, because I never viewed the site before the petitioner filed the complaint. I'm not in possession of any photographs that clearly depict the pre-obstruction condition of the drain. Therefore, I will not be able to offer any guidance or assistance as to matching the previous site conditions with regard to the ditch grade, the side slopes, the ground cover or other particulars, either before or after restoration of the drain, or verify whether the finished project matches the previous conditions. Other than that, I have communicated extensively with Mr. Harrison, both by e-mail and by telephone, some of those communications have been forwarded to you, and the rest are in a file, if you would care to read them. No big deal. I do agree with Mr. Harrison's advice that he has given and will give this Board in this regard, to move forward.

Joe Harrison, Jr.: Yes, after communicating with Bill on this, and reviewing the letter from Mr. Madero and the proposal by Heidorn Construction, it's my opinion that the proposal by Mr. Madero complies with this Board's order, and, hopefully, he will be able to gain access to Ms. Loehr's property. Ms. Loehr could not be here this evening. I'm sure she'll be in contact with the Surveyor's office here in the near future, but Mr. Madero cannot, needs access to get on her property. I guess, if we find out on October, I'm sorry, December 18<sup>th</sup> that he was unable to gain access to her property, we can act at that time. One of the things that the Board needs to keep in mind, and Mr. Jeffers reminded me of that, and so did counsel for Mr. Madero that

Ms. Loehr was certainly agreeable, initially, to the pipe being put in, and granted him access to put the pipe on her property. So, if she continues to disagree with him getting on her property to remove it, we'll have to address that issue, but, hopefully, she'll understand that we are urging her to allow him to complete the work that we ordered be done.

President Kiefer: So, there's no easement that allows access to the said area of concern?

Bill Jeffers: No, the ditch is not in a drainage easement. That was one of the problems with the City Engineer's office, they only address drainage facilities that are in platted drainage easements. This particular drain was a drain that was created in the 70's—

President Kiefer: Okay.

Bill Jeffers: —it pre-existed as a creek, and there is no easement at the location—

President Kiefer: For the access.

Bill Jeffers: — where the work is going to be done.

Joe Harrison, Jr.: And the statute is lacking a little bit too. I mean, it's unfortunate there aren't some more specifics in the statute, the drainage obstruction statute that might even permit that.

Bill Jeffers: Right, well, there aren't, and there are problems with the drainage statute, but it was written for the entire State of Indiana, not just residential properties. It was written to, for problems that would occur on farm ground, or out in wild wide open on the prairie, you know. So, and it was written by a fella who was a well driller, who was a State legislator to address things that he encountered out in agricultural areas, but, it applies to residential areas as well. It just doesn't have all of the tools that we need to get the job done the way we're used to doing it in developed areas. Now, I will say, as far as access, Mrs. Loehr, when she contacts me, or when I contact her, I will encourage her, the same as Mr. Harrison has described, and explain that the obstruction existed on her property as well as on Mr. Madero's property. Even though Mr. Madero was the one who installed it. She allowed him to install it, acquiesced or whatever, whatever word you want to use, she allowed for it. We determined that it was caused intentionally by the actions of Mr. Madero, but it exists on her property as well. So, it would be of great benefit for her to allow it to be removed by Mr. Madero at his expense to prevent the Board from having to go back and re-visit the entire situation and possibly assess an action against her for the obstruction that exists on her portion.

President Kiefer: It sounds like she's trying to force him, you know, she's got leverage, and she's trying to force him to pay for a fence.

Bill Jeffers: Well, now the fence I don't even want to consider that—

President Kiefer: Well, no, I don't either, but I'm just saying, from face value, that's what it sounds like.

Commissioner Melcher: Wasn't the fence—

Bill Jeffers: I don't know, I think I may have led her to believe that a plan would have to be approved, and that I was going to follow certain standards, but that was not part of the motion. The motion was made in accordance with the statute, and the statute does not have those tools in it that I was looking for. So, the best thing to do is to move forward, remove the pipe, restore the ditch as closely as possible to how it previously existed, and get onto the next thing. The fence is something totally separate. They took a fence down to get access. The fence was there, but that has nothing to do with drainage. We only address the obstruction, and the pipe is the obstruction, and it has to go.

Commissioner Melcher: So, he did take her fence down?

Bill Jeffers: Someone took her fence down, because the access—

Commissioner Melcher: That's kind of what I was—

Bill Jeffers: — was made through his backyard. The access came down his driveway, over his embankment of his backyard, down into the valley, and they took the fence down, I don't know if it was her fence or his fence, it's on the property line, I suppose, and that's how they accessed her backyard.

Commissioner Melcher: Because I kind of remembered that's what was happening, he was taking her fence down.

Bill Jeffers: Right, well, that's a civil matter. The fence was supposedly—

Commissioner Melcher: No, I understand that.

Bill Jeffers: That's a civil matter. It doesn't have anything to do with the statute.

Commissioner Abell: We've got all of the problems we need. We don't need to buy any.

President Kiefer: Yeah.

Bill Jeffers: Yeah.

President Kiefer: So, this is strictly a report? We don't need to act on anything?

Bill Jeffers: No, sir. This is an update report. I wanted to let you know where it was and why it hadn't been finished yet, and provide you with this information. My biggest regret, and the focus of between now and the end of the year is that there's two or three or four of these things languishing here, and have languished for a year or so. This gentleman over here is going to come into the office, and I don't feel good about leaving these things for him to have to clean up.

Commissioner Abell: Well, stick around.

Bill Jeffers: Unpaid?

Commissioner Abell: Well, (Inaudible. Microphone not on.)

Bill Jeffers: Now wait a minute, in the State of Indiana—

Madelyn Grayson: Consultant?

Bill Jeffers: – it's illegal to require somebody to work without pay.

Commissioner Abell: It's also illegal to have two people being paid out of one line item.

Bill Jeffers: You've got a point there. No, I just really, the man's a professional, Mr. Mueller, he's going to be a good Surveyor, I can tell, I've had a nice discussion with him. He's got all the skill and the knowledge to move this department forward. Having worked as a mine engineer, he's familiar with, you know, reclamation, drainage, all of that, but he's going to have to come in and present you guys with a set of specifications, an annual report, and then once the bids are let in April, or the end of March beginning of April, he has to start getting those contracts going and everything and turn right around and get all of the cut outs done between the Auditor's office, the Assessors's office, and the Treasurer's office before the tax bills go out, and he doesn't need all of this stuff hanging around anymore. He really doesn't. This should all be wound up by the end of the year, and there's two or three of these. There will be another one next week, or next meeting. So, that's what's really bugging me.

President Kiefer: Thank you very much for that.

<b>Other Business</b>
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President Kiefer: We can move on, if you're okay then, is there other business?

Bill Jeffers: No, this was the only piece of business, unless there's public comment, this was the only piece of business.

<b>Ditch Maintenance Claims</b>
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Bill Jeffers: I'll bring claims to you at the next meeting.

President Kiefer: Okay. If there's no claims, there's no claims today?

Bill Jeffers: No, sir.

<b>Public Comment</b>
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President Kiefer: Any public comment?

Commissioner Melcher: Seeing none, I'll move to adjourn.

Commissioner Abell: Second.

President Kiefer: We're adjourned.

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

**Those in Attendance:**

Joe Kiefer

Bill Jeffers

Others Unidentified

Stephen Melcher

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

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**Joe Kiefer, President**

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**Stephen Melcher, Vice President**

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**Marsha Abell, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
DECEMBER 18, 2012**

The Vanderburgh County Drainage Board met in session this 18<sup>th</sup> day of December, 2012 at 6:05 p.m. in room 301 of the Civic Center Complex with President Joe Kiefer presiding.

**Call to Order**

President Kiefer: I would like to call to order the Vanderburgh County Drainage Board for December 18, 2012.

**Pledge of Allegiance**

President Kiefer: I would like to ask Bill Jeffers to lead us in the Pledge on his last meeting.

(The Pledge of Allegiance was given.)

President Kiefer: Thank you. Appreciate that.

**Approval of the December 4, 2012 Drainage Board Meeting Minutes**

President Kiefer: Is there a motion to approve the previous minutes?

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: All in favor say aye.

All Commissioners: Aye.

**(Motion approved 3-0.)**

**Preliminary Drainage Plan: 8400 Churchill Court**

President Kiefer: Okay, now we'll turn it on to Mr. Jeffers.

Bill Jeffers: Okay. Marsha mentioned in the previous meeting that there's a back up of traffic during Christmas shopping out there, northbound Burkhardt at the Expressway, and that's very true because a lot of people are trying to take a left into Best Buy or Gordman's and other retail outlets on the left hand side. I just wanted to bring to people's attention who might be listening, there's a double left turn lane there, northbound on Burkhardt at the Expressway, and if you're in that left bound turn lane, you can take a left and go up a quarter mile and take a right on Kimber Lane and come in the back way to that shopping center.

Commissioner Abell: That's a better way to do it.

Bill Jeffers: That's where all of your parking is going to be anyway down at that end, because the rest of it is going to be completely filled up, and you can avoid that left turn lane, you know, and probably get a quicker parking spot and not have to wait

for all of the foot traffic crossing the drive lane through there. Our first item on your agenda is Mark Norman, 8400 Churchill Court. I hope I have that address right. I had it wrong on a previous document. Mr. Norman owns a large lot in Fox Hollow Subdivision. It had an excessive drainage easement on the back side of his lot because of the original plan when that subdivision was platted called for a detention area back there, but a subsequent plan, drainage plan was approved as they expanded that subdivision, and it made that large easement unnecessary. There's quite a bit of property back there that's encumbered by that easement, and in your Commissioner's meeting you took the first step towards vacating a large portion of that easement so Mr. Norman can build a garage or a work shop or, I think it's a garage back there. So, the next step would be to approve his drainage plan for that area. He's here tonight with his engineer, and they have a plan here. Let me get the right one up here. Yeah, okay, he's here with Lee McClellan, and his drainage plan is here, and I've reviewed it, and it's sufficient. John Stoll has also taken a look at it, reviewed it, and I think, I have an e-mail from him, he has no problems with it. There are a few things in the cover letter from Mr. Norman, written by Mr. McClellan, that lead me to make some comments. First off, I'm going to recommend preliminary approval of the drainage plan, and the reason I'm making it preliminary is your second step is to approve the easement vacation, and that will require the dedication of a necessary new easement to house part of the pipe that Mr. Norman has placed. That pipe being a little bit outside the existing easement, so there will have to be a dedication of a small piece of new drainage easement to house that pipe. That can be done as a part of the vacation, which, I guess, will be at your next meeting. After he does that he will have an easement for the pipe, and the plan can go forward as a final plan and be approved next year as a final plan. Also, Mr. Norman is asking that the current amount of cover provided over top of the pipe be relaxed. He's only one eighth of an inch short, that's a minuscule amount in the overall scheme of things. However, the request to waive that requirement of a full foot of fill over top of the pipe would require your discretionary, you can make a discretionary decision on that, and that's all okay. I have no problem with that, but you might want to consult with the County Engineer on that. I think he's aware of it. Also, Mr. Norman is requesting to take full responsibility for the maintenance and operation of the pipe, rather than submit two dollars a lineal foot, which is our, goes into our escrow account to cover future repair that might, you know, if something, if the pipe failed, for you to go in and replace the pipe or repair the pipe. That's what that two dollars a lineal foot, he's asking to waive that, and he will take full responsibility for the maintenance and operation of the pipe. The language should also include replacement of the pipe, okay? Not just maintenance and operation, but replacement in case of a failure. That request would be subject to the County Engineer and the County Attorney's determination and advice, not the County Surveyor. I have no problem with it, but I think the County Attorney and the County Engineer should play into that.

Commissioner Abell: Mr. Jeffers, is that a one time fee?

Bill Jeffers: That's a one time two dollars a foot, sits in an escrow account, gathers interest, and then in the case of a failure, which we have very few failures, the county goes out and replaces that. We charge that for every subdivision, every new subdivision. You can either pay that, or if you don't pay it, it's the homeowner's responsibility.

Commissioner Abell: Well, if you don't pay it and the property changes hands—

Bill Jeffers: It goes, that has to be taken care of in the chain of title.

President Kiefer: That would be on, yeah, it would be on the title, but I could see two owners later saying, what, you mean I've got to pay?

Bill Jeffers: Everybody else's is paid for and mine's not.

President Kiefer: Yeah.

Bill Jeffers: You know, so, now you're catching on to why I'm saying this requires the County Engineer and the County Attorney's determination and advice.

President Kiefer: Okay, so—

Bill Jeffers: I just thought that would be the best thing for me to say at my last meeting.

President Kiefer: – but is that a part of the drainage plan, that, him asking—

Bill Jeffers: I believe that subdivision does not have a homeowners association. I believe that subdivision is Plan B and every, and there is a two dollar fee for the other pipes in there.

President Kiefer: Okay, but that's not something we have to—

Bill Jeffers: You don't have to decide that tonight.

Joe Harrison, Jr.: No, he's just recommending preliminary approval tonight anyway.

Bill Jeffers: Right.

President Kiefer: Okay.

Bill Jeffers: That's not something you have to decide tonight. It also, he wants to avoid the mandril test, because it's a plastic pipe. For flexible pipes we now mandate a test, pull a mandril through there and see if everything is fine. So, that's part of his request, to avoid the mandril test and to take full ownership and maintenance responsibility for the pipe. I think you need to discuss that with your Engineer and your Attorney before you grant that part of the final plan.

Commissioner Abell: Could you spell that? You're not saying man hole, you're saying something else.

Bill Jeffers: M-a-n-d-r-i-l.

President Kiefer: Mandril.

Bill Jeffers: Or, r-e-l, possibly.

President Kiefer: I'm not familiar with what that is, but—

Bill Jeffers: Okay, it's like a plug and rope, and you pull the cork through the pipe to see if it's perfectly round.

President Kiefer: I got 'ya.



Bill Jeffers: You know, and if it passes through there without a five percent deflection, it passes our standard. If the pipe has been deflected because it wasn't bedded properly, it will have a greater than a five percent deflection, the mandril will not pull all the way through. It will catch.

President Kiefer: Yeah, and I'm sure that's done to make sure the flow of water—

Bill Jeffers: Plastic pipes have problems, inherent problems because of the fiber in the plastic. Some of the fiber is recycled. Some of the fiber is virgin fiber, and the recycled fiber tries to find it's previous configuration, like a piece of monofilament fishing line—

President Kiefer: Sure.

Bill Jeffers: – it always wants to curl back up—

President Kiefer: Yeah.

Bill Jeffers: – because it's been sitting on your fishing reel. Okay, so sometimes those fibers try to, if they're not bedded properly so that the pipe is perfectly rigid by proper bedding, the fiber will start to move. If it does move, in some oddball ways it can deflect the pipe and restrict the flow. It can even crack the pipe.

President Kiefer: Okay.

Bill Jeffers: So, that's why plastic pipes—

President Kiefer: So, there's a good reason and a good purpose for doing that.

Bill Jeffers: That's why we added the mandril test to flexible pipe in our ordinance, because we had encountered many, many pipes, plastic pipes that deflected to the point of almost collapsing.

President Kiefer: Well, we'll defer that to the advice of the Engineer and legal counsel for final—

Bill Jeffers: Right, the two professionals.

President Kiefer: Yeah, the professionals, yes.

Bill Jeffers: Okay. There's also an issue with another easement along side of the house that needs some fine tuning. He wants to leave a fence in that easement, and he wants to encroach the new easement with a driveway and a parking area. None of this is a problem to me. I have all of this spelled out. This is in the portion of the request two, three and four, I have it all spelled out here. I'll turn it in, don't need to go into it in any great detail, but all of that requires an easement encroachment agreement with exhibits that show the easement, show the encroachment, a certificate of insurance to cover that according to our process. I have not received that, so that needs to come with the final drainage plan as well. I'm just explaining to you why it's a preliminary plan with Mr. Norman and his engineering representative here I thought it only fair to let everyone know why I'm recommending preliminary approval as this moves forward. If I have misrepresented this in any way, or caused anybody any heartburn back there behind me, Mr. Norman and his engineering consultant, Lee McClellan, can make comment at this time. Otherwise,

I'm recommending preliminary approval of the drainage plan for Mark Norman, Fox Hollow Subdivision, Section Two, 8400 Churchill Court in association with the vacation of a drainage easement that we brought before your previous meeting.

President Kiefer: Okay, before we make a motion, I would like to see if anybody from the audience would like to speak. Yes, and please state your name and address for the record.

Lee McClellan: Lee McClellan, Morley and Associates, 230 Second Street, Suite 500, Henderson, Kentucky. What precipitated the request for Mr. Norman to take ownership of operation, maintenance and replacement of this pipe, was precipitated by two previous e-mails from Mr. Stoll, who said his major concern with the drainage issues was access to this pipe in the rear of his lot. Mr. Norman has a fully enclosed back yard, completely enclosed within a fence. So, Mr. Stoll was concerned about having county access to a pipe that is in the gentleman's backyard. So, we felt, to eliminate that concern and the issue of providing access, and in Mr. Stoll's e-mail he said, well, you know, Mr. Norman would have to know that he would have to take down his fence to let us back there and all this stuff. Mr. Norman agreed to take over the operation, maintenance, and as Bill said, the replacement of that pipe in the event it needs to be there. It only services his lot. The pipe only services his lot. All the drainage from the neighbors is off site to another lot.

President Kiefer: Okay, well, thank you very much, and we'll address that at the final approval then, final drainage plan.

Lee McClellan: Any other questions? Thank you.

President Kiefer: Okay, we'll make a motion to approve the preliminary plan.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Bill Jeffers: Okay, thank you very much, and thank you, Mr. McClellan for—

Lee McClellan: Thank you.

Bill Jeffers: — clarifying that. I appreciate it.

**Candie Houston: 742 Trillium Way: Huang-Huston Obstruction Petition**

Bill Jeffers: Next issue, or next item of the agenda is Candie Huston. This is the Huang-Huston discussion we've been having. Candie Huston is 742 Trillium Way. She is here tonight with her engineering representative, Justin Shofstall, from Andy Easley Engineering, with whom she met this afternoon and has paid for and secured ownership, or partnership/ownership of the plan that Justin Shofstall had drawn for her as a part of her desire to encroach the drainage easement behind her house at 742 Trillium Way with a swimming pool deck, a retaining wall, and some other incidentals. She's also submitted to our office pictures from John Elpers, the homebuilder who has reconstructed her house, showing that he connected her downspouts from the house and the pump effluent from her swimming pool to underground pipes that carry the rainwater that falls on the house and the water that's discharged from the swimming pool pump, sends that to the north and south, to the side yards where it can more, be more easily controlled as it flows downhill and around the Huang's home. So, she does have the plan that you had asked for last month. She has secured ownership of that plan and the right to use it to implement the work at her house. She's paid for it in full. I brought with me tonight some drawings from our drainage code that shows how the surface water should be directed from her house downhill, around the Huang's, so that when even after the work has been completed, according to this plan, there may still be occasions where the rainfall is so intense that the water gathers up in the Huang's backyard, because they are downhill. Okay? Most of the water will be intercepted, but there still could be water even that falls in the Huang's yard that causes them a problem, and may reactivate their concern about their foundation. So, I brought some grading plans, according to how it should have been done in their yard, from the county's drainage code. They may want to take a look at that and maybe even consult with an engineer, whether it's Justin Shofstall, who's very knowledgeable of this location, or whether it's another engineer, and find out, determine whether the grading, the protective grading around their home is sufficient to carry the water off to the street in their front yard. So, I brought that with me, and I would suggest that the Huang's, if they are here, or if they're not I will mail it to them, we'll consider that. Let's see, there's also a document here that Justin Shofstall brought with him tonight that's a partially filled out drainage encroachment agreement to be finished by Candie Huston and submitted for your approval at a later date. I have this here, but anyway, it has the exhibits on it, all it lacks is the signatures of the homeowner, notarized, etcetera, and certificate of insurance, and then be passed to Madelyn for safe keeping and a copy given to Joe Harrison, Jr. for review as to its accuracy and legality. So, all that apparently has been resolved between Ms. Candie Huston and Easley Engineering, and all she needs to do at this point is to complete the easement encroachment agreement, submit it to Madelyn so it comes before your Board next year, and secure a contractor to finish the work. Mr. Huang will have to take his fence down and possibly scoot his yard barn out of the way for some of the work. Then he needs to file an encroachment agreement if he wishes to have any portion of the fence or yard barn remain within the easement. Okay? If there's any questions on that, I'm here. If there's any questions of Ms. Huston, or Mr. Shofstall, they are here. I haven't checked to see, but I didn't see the Huang's in the audience earlier.

Commissioner Abell: I have a question.

Commissioner Melcher: They're not here.

Bill Jeffers: Okay.

Commissioner Abell: I have a question, Bill.

Bill Jeffers: Yes, Ma'am.

Commissioner Abell: When you said water that may have fallen in the, are you saying that there may be some drainage issues for the Huang's house regardless of Ms. Huston? That maybe they have some drainage issues of their own that they need to take care of?

Bill Jeffers: I believe that they do.

Commissioner Abell: Okay. So, basically, we can never, of course, say if something wasn't there, because it is there, but if her property did not have the pool and did not have the issues that it has had with the drainage, there may still be some problems that the Huang's would have. Not everything was caused by coming off of her property. Is that a fair statement?

Bill Jeffers: That's very correct.

Commissioner Abell: Okay.

Bill Jeffers: In my opinion.

Commissioner Abell: So, with what the engineers have come up with at Andy Easley Engineering, and drawn out to you, that should take care of the issue of what she did do that put water on their property, and the rest of it maybe is just like it would be. Like, I mean, my yard gets full of water when it rains a whole lot because I have a hill on my yard. Is that pretty well what you're thinking?

Bill Jeffers: Yes, Ma'am, I believe when you build a house, the reason I brought these county standards with me, when you build a house, and these standards came from HUD, Housing and Urban Development, to get an HUD loan you have to follow these grading plans. So, we simply borrowed them out of HUD's specifications. This is one that was drawn by Morley and Associates that is used by the Building Commission, and we put that into our code as well. It shows the slope that you have to have away from your house foundation to pretty much ensure that water doesn't get up against your house foundation. I don't believe that the Huang's house, if you checked it, would comply with these grading, in the closest detail that you would like. Also, they, if you look at some of the photographs in the file, you'll see that they have a garden along one side of their house, I think that may be blocking some water from going around their house out to the street. They have a yard barn on the other side, pretty much where the grade would carry the water around that side of the house, there may be a problem over there. So, water stands in their backyard longer than they would like, regardless of where it comes from. It all comes out of the sky. Some of it's coming from Ms. Huston's house, yard; some of it's coming from her swimming pool deck; some of it's coming simply it has fallen on the Huang's property and migrated downhill till it has nowhere to go. They complained about water in their front yard, they said the sidewalk was buckling up. There is no way water from Ms. Huston's yard is causing damage to the sidewalk in the front of the house. So, you may still have, and I'm saying all of this because there's a new County Surveyor coming in, and there's the Drainage Board sitting here, you may have, after everything she does—

President Kiefer: An issue?

Bill Jeffers: – you may have a citizen issue that regenerates itself, but I think this plan, if it's implemented according to this plan, will capture all the excess water that is being generated by the improvements, and when I say improvements I mean the swimming pool, the swimming pool deck, the yard grading, the various things that Ms. Huston did to her yard that triggered her having to come here and ask for an easement encroachment agreement. I think this plan addresses all of that water, okay, including her pump water.

President Kiefer: Bill, are you asking then, are you recommending for us to make a, take action tonight, take a vote on this plan?

Bill Jeffers: You have already approved the plan that she has paid for. You approved that a year ago.

President Kiefer: Oh, okay. That was done already.

Commissioner Melcher: I was going to ask–

Bill Jeffers: Okay, and now she's paid for it, it's her plan to implement.

President Kiefer: Okay.

Bill Jeffers: So, I'm just telling you that everything's been done. The ball is in her court to secure a contractor to finish the plan in the ground.

President Kiefer: Okay, but there's no action from us expected tonight?

Bill Jeffers: You could tell her thank you.

President Kiefer: Okay, thanks, I appreciate you doing that. We were rather direct with you last time–

Bill Jeffers: And, it was very expensive for her here at Christmas time to pay for this plan.

President Kiefer: Well, it needed to be done, and we appreciate it. Thank you. I'm just, I guess, I was just trying to get at–

Bill Jeffers: Right.

President Kiefer: – is there anything else we need to do tonight?

Bill Jeffers: The only thing you need to do is, and I'm saying all of this because Jeff Mueller is aware of it to some extent, but I want it all on the record. The first of the year you are going to have to go get the Huang's to bring in their easement encroachment agreement, finalize hers, finalize Ms. Huston's, and follow this, you know, get him to take his fence down, whatever he has to do. He's already, they've got some cross easement agreement already worked out between them, and when the weather is right, get this thing moving.

President Kiefer: Okay, thank you very much.

Bill Jeffers: Yes, sir. Thank you.

President Kiefer: I mean, is there something you want to add.

Justin Shofstall: Justin Shofstall with Easley Engineering. This would be one of those times where Bill was not quite long winded enough for me. So, I would like to reiterate a few little things. As far as what Mr. Jeffers was talking about in regards to the Huang's property, back, Ashley Place was originally done, designed by Easley Engineering, and the master drainage plan for those two lots, the best way to describe it was the existing ground, Ms. Huston's property is here, the Huang's property is here, cul-de-sac, cul-de-sac. This is how the cross fall and existing topography was on their yards. With the master drainage plan that was supposed to be allowed, it would still have that general fall, but it would allow for the grading of both homes and around. What you have at the Huang's is, whenever it comes down from Ms. Huston's property, it comes down to here, the Huang's property does this. It's flat. They don't have the grading to get it around. That's part of the reason why they had that ponding in their rear yard. Even with implementing the plan to make sure that no water whatsoever from Ms. Huston's property, they are still going to have standing, ponding water unless they do some general grading and shape work in their rear yard to allow for that water to get around, because their home is sitting there, their back yard is sitting there flat, ponding water unless, until it finally builds up and gently slopes down to the south. That is the ponding water issue that Mr. Jeffers was alliterating to this evening.

President Kiefer: Okay, thank you.

Commissioner Abell: So, they could even put a drain in between them and Ms. Huston's to catch all of that water and get it out of there.

Justin Shofstall: As far as with what was implemented with the original plan from last year, yes, and even with having the drain in there, this is to prevent any of her water even getting on their property, they would still have that ponding issue there.

Commissioner Abell: But, if they graded away from their house toward the drain, they could get the water away from their house.

Justin Shofstall: If they did that, it would, you would have to actually go in there and do some additional digging and grading out, because with the original grading plan it was, the encroachment, the reason for the encroachment of the easement is mainly because whenever the original plans were done there was a requirement for a drainage easement down south, and the rest of it should have just been a public utility easement, but just for ease of drafting it's for across two other lots until we hit the terminus on the north boundary property line. Well, 15 foot public utility easement/drainage easement, at that time Mr. Easley was looking at it, well, that's fine, that will work. Unfortunately, now here after all these years, if it was just a standard public utility easement we wouldn't be here tonight.

President Kiefer: Thank you.

Justin Shofstall: Thank you.

President Kiefer: Okay, I think we're ready to move on to the next item then.

Bill Jeffers: That's a good point though, and I discussed that with Jeff Mueller this afternoon before the meeting, we need to stop platting these easements just because it's the easiest thing to do, and at whatever per hour they charge to draw up a plat, they just keep the lines going straight and call everything a drainage easement, you know, even though the drainage easement wasn't needed at the top of the hill. You know, to tailor make it might have taken an extra half hour, that's another \$75, okay. Look what it cost. So, it's a very good thing, you know, there's nothing the government can do. The judge has told us and Area Plan Commission, if the plat meets the code, we must approve it. You know, and we could sit here all day and argue about, well, okay, blah, blah, blah and all that, but, anyway, you know, I just keep telling the engineers over and over again, do not call something a drainage easement unless you absolutely need it, and only make it as big as you have to make it, because when these lots are small, commercial or residential, people want to use every square foot they paid for. They want to use every square foot they are paying taxes on. Don't encumber them with a drainage easement that's not necessary. Okay, that's the public service announcement for the day.

**Blue Heron Estates: Modified Drainage Plan Approval**

Bill Jeffers: Blue Heron Estates. This is a real simple one, and James E. Morley will explain it, if need be. They simply want to move an easement over, farther out of the back yard. Good idea. The previous easement was put there, or the easement that's there was put there because a farmer needed a 20 foot ingress/egress to get to his farm and no longer needs it. So, Jim, do you want to earn your money?

Jim Morley, Jr.: I'll try. Jim Morley, Jr. of Morley and Associates, 4800 Rosebud Lane. As Bill said, all we're doing is moving an easement, or moving a swale and granting a new easement. We're moving it about 20 feet east, along the east boundary line of Blue Heron Subdivision. The swale still picks up the same amount of water that it used to pick up, keeps the same amount of water on the subdivision going to a retention basin, they're just adjusting some lot lines in that area because the farmer no longer needed an access drive back to a back farm field, and the people would like to get the rear yard swale to the back of their new lot line, which is about 20 feet farther from the house than it used to be.

President Kiefer: Okay, thank you very much.

Commissioner Abell: Where is Blue Heron? Is that off of Baseline?

Bill Jeffers: Millersburg, just an eighth of a mile east of Green River Road. Go up Green River to Millersburg, instead of taking a left to go towards Oak Hill, you take a right and it's right there on the north side of the road. Very nice subdivision. I've reviewed the plan, recommend approval.

President Kiefer: Okay, so is there a motion?

Commissioner Melcher: Yeah, so moved.

Commissioner Abell: Second.

President Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**

Jim Morley, Jr.: Thank you very much.

Commissioner Abell: Thank you.

<b>Other Business</b>
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Bill Jeffers: We've already discussed the Huang-Huston issue. I thought it was going to be much more complicated, so I had a discussion bullet point down here. Don't need it any longer under other business.

<b>Approval of Ditch Maintenance Claims</b>
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Bill Jeffers: I do have some ditch maintenance claims, quite a few of them.

Commissioner Melcher: I'll move for approval.

President Kiefer: Second, I mean, is there a second?

Commissioner Abell: Second.

President Kiefer: Okay. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Kiefer?

President Kiefer: Yes.

**(Motion approved 3-0)**



**Public Comment**

Bill Jeffers: Under public comment, I want to tell you I really do appreciate this beautiful plaque. I'll put it up next to my other plaque from the Homebuilders Association. I want to tell you that I've enjoyed working with all of you. I've worked with Joe Harrison on several occasions in the past, Area Plan Commission and then Drainage Board, and, again, now that you've retained his services, enjoyed every minute of that. As was said earlier, the County Surveyor's job is not a Democrat job, it's not a Republican job, it's a job, and our constituents are property owners, home owners, home builders, farmers, the same constituents you have. We serve them without regard to politics. I know that your, I always wanted to be County Surveyor, and that's all I ever wanted to be. I didn't want to be County Commissioner, I didn't want to be President of the United States, I just wanted to be County Surveyor. So, I've lived my dream, and I understand that Jeff Mueller wants to be County Surveyor. He's wanted to be County Surveyor for a long time, and now he is. I'm sure he has the same, I've talked to him on several occasions, I'm assured that he has the same philosophy, you know, this is a job that has to be done, as boring as it may seem, and, hopefully, for Madelyn's sake he's not nearly as windy as I am.

Madelyn Grayson: We'll try to train him right, okay.

Bill Jeffers: Break him in early. So, I'm ready to go have a glass of wine.

President Kiefer: Well, before we go, I think our County Attorney would like to say something.

Joe Harrison, Jr.: Bill, I just want to say it's been a real pleasure and education for me to work with you over the years. You're going to be missed tremendously by everyone here in the community, but it's really been a pleasure for me, and I've learned a hell of a lot from you, and I appreciate it. Thank you.

Bill Jeffers: Thank you very much, Joe. You and I, we can meet up there at Rounder's II in Daylight, Indiana, another public service announcement. The best pizza in the county.

President Kiefer: I've eaten there and it is good.

Bill Jeffers: We'll meet up there and share some Christmas cheer.

President Kiefer: Well, I would like to wish everybody a Merry Christmas, enjoy the holidays, and if there's a motion to adjourn we can close out the meeting.

Commissioner Melcher: So moved.

Commissioner Abell: Second.

President Kiefer: We are adjourned.

(The meeting was adjourned at 6:41 p.m.)

**Those in Attendance:**

Joe Kiefer	Stephen Melcher	Marsha Abell
Bill Jeffers	Joe Harrison, Jr.	Madelyn Grayson
Lee McClellan	Jim Morley, Jr.	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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(Recorded and transcribed by Madelyn Grayson.)