

**VANDEBURGH COUNTY
DRAINAGE BOARD
JANUARY 8, 2013**

The Vanderburgh County Drainage Board met in session this 8th day of January, 2013 in room 301 of the Civic Center Complex.

Call to Order

Commissioner Kiefer: I would like to call to order the Vanderburgh County Drainage Board for January 8, 2013.

Pledge of Allegiance

Commissioner Kiefer: If our new County Surveyor would please lead us in the Pledge.

(The Pledge of Allegiance was given.)

Approval of the December 18, 2012 Drainage Board Meeting Minutes

Commissioner Kiefer: Is there a motion for approval of the previous meeting's minutes?

Commissioner Abell: So moved.

Commissioner Melcher: Second.

Commissioner Kiefer: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Commissioner Kiefer: Alright.

Election of Drainage Board Officers for 2013

Commissioner Kiefer: Next is, I'm looking for a motion for the, to elect officers for 2013.

Commissioner Abell: I move that the President for the Vanderburgh County Drainage Board for the year 2013 be Mr. Stephen Melcher.

Commissioner Kiefer: I second that. Roll call please.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Let's see, I'll just go ahead and vote yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Steve can count. Yes.

Madelyn Grayson: Outgoing President Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 3-0)

Commissioner Kiefer: Thank you.

Commissioner Abell: Congratulations, Mr. Melcher.

President Melcher: I guess, it's my turn now. Well, let's see here. Oh, that's right we need a Vice President.

Commissioner Abell: I move for Vice President, Mr. Joe Kiefer.

President Melcher: Well, I'll second that. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Introduction of County Surveyor Jeff Mueller

President Melcher: Alright, with that, I do want to welcome you, it's your first time. Just, for your first time, I want you to state your name and office. You've got to do that anyway for the record.

Jeff Mueller: Sure.

President Melcher: But, that way everybody that's watching us, and the four people in the audience can see.

Jeff Mueller: My name is Jeffrey D. Mueller. I'm now the Vanderburgh County Surveyor.

President Melcher: Congratulations.

Jeff Mueller: Thank you, sir.

President Melcher: We're going to work with you, and you work with us, and everybody's going to be going down alright.

Jeff Mueller: Mr. Melcher, I did want to thank you. I thought you guys did a great job on the inauguration.

Commissioner Abell: Oh, yeah.

Jeff Mueller: I'm one of those office holders that was there, and I think you guys did a great job. I got a lot of comments back on it too.

President Melcher: I did too, and I've never had comments back on one, and that was my seventh time of getting sworn in. It's the first time that people called me and said, that was really great.

Jeff Mueller: So, anyway, sorry to interrupt.

President Melcher: No, that's fine.

Jeff Mueller: I'm done.

Setting of Drainage Board Meeting Dates for 2013

President Melcher: We want to set the regular meeting dates for 2013. Now, normally in the past—

Madelyn Grayson: That was established in the ordinance that you passed. I guess, you just need to reiterate that, or reconfirm that or something.

Joe Harrison, Jr.: Yeah, normally it would just be after each Commission meeting.

President Melcher: Right, that's just what I was going to say. I was going to say before any, we've got it done, and then if nothing comes, you need to tell us ahead of time so we could announce that right off the bat so people don't have to sit through maybe a long, long meeting. So, if you don't have something that night for some reason, you just let the women in the office know and they'll tell us.

Jeff Mueller: Okay.

**Drainage Easement Encroachment Agreement: Mark & Rose Norman
8400 Churchill Court: Fox Hollow Subdivision, Lot 47**

President Melcher: I guess, the next thing would be the drainage easement encroachment agreement, the Mark and Rose Norman, lot 47, Fox Hollow.

Jeff Mueller: Yes, that's, just to keep everything straight, that's the 8400 Churchill. If you'll recall, and you've kind of done some of the paperwork on that already. That was, first of all, there was an easement added to take into account pipe. That easement was conveyed and filed on December 21, 2012. The next thing was to vacate the existing easement, which you all just did in your last meeting. Okay, then the final thing was Mr. Norman, in his proposal, was going to build a building, I think, in the future back on the area that you just vacated. In the process of that there's going to be a drive that's going over that. There was some fence in the easement and some things like that. So, the third piece of this whole puzzle was to get an encroachment agreement signed. Now, I think at the last meeting on December the 18th, Bill brought up a couple, Mr. Jeffers brought up a couple of things, and I think those have all been resolved. The decision, I think, and Mr. Harrison was reviewing the agreement was that Mr. Norman is going to take the pipe and be responsible for it. The county wouldn't be responsible for it. They needed to put all of that in writing and come up with a certificate of insurance. Mr. Harrison's gotten some e-mails back to us saying he was fine with that. A couple of issues that Mr. Jeffers had brought up, one was that the pipe needed to have a mandrel testing, but after talking to Mr. Stoll, the County Engineer, his comment was, actually there had been a mandrel test done, but it didn't meet county specifications, because the county inspector wasn't there when it was done. But, since the pipe is going to be Mr. Norman's responsibility, the thought was that, you know, then if the property owner is happy with the mandrel test, then we should be. The only other issue that Mr. Jeffers brought up at that time was that the proposed cover on the pipe was supposed to be

12 inches, actually it's an eighth of an inch off, or one hundredth of a foot off. It's to your discretion on, you know, to approve that or not to approve that. Other than that, we are ready, if everybody feels comfortable with those issues, we are ready to roll with it and to sign the encroachment agreement and put this whole piece of business to bed.

President Melcher: I guess, as your first elected act, what's your feeling on this?

Jeff Mueller: I'm fine with it, Mr. Melcher.

President Melcher: That's what we wanted to hear, because that's what we take. You're the one that's elected. You're the one that's got the expertise on this.

Jeff Mueller: I appreciate that. Thank you.

President Melcher: That's the reason why we've always asked Bill, and we'll be asking you every time.

Jeff Mueller: Okay.

President Melcher: We want, so you probably just need to put that in your scenario, as the County Assessor¹ this is my proposal to you. Any questions? Is everybody okay with that one eighth of an inch off?

Commissioner Abell: Do you need a motion?

President Melcher: Yes.

Commissioner Abell: Motion to approve.

Commissioner Kiefer: Second.

President Melcher: Okay. Anybody else want to say anything, anybody from the audience? Do you want to go ahead and do a roll call on this one?

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: Okay, thank you. Good luck.

¹Should be County Surveyor.

Other Business

President Melcher: Alrighty, other business?

Jeff Mueller: The only other business that I just want to bring up is because, you know, we did approve a first reading of a rezoning, it is probable at the next meeting you will be having a preliminary drainage design on that subdivision. So, you know, probably on that January 22nd meeting that will be something that will be coming up. So, assuming that it comes to us on time.

President Melcher: Okay, and that would be a preliminary?

Jeff Mueller: Yes.

President Melcher: Because, Area Plan, I don't think hears it until next month.

Jeff Mueller: That's correct.

President Melcher: Yeah, because I know it's later.

Jeff Mueller: Yes.

President Melcher: So, okay.

Jeff Mueller: A couple other things that may come up, I'll put them on the agenda when we know them.

President Melcher: Okay.

Jeff Mueller: Okay.

President Melcher: Thank you.

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims.

Jeff Mueller: I don't have any this time.

Commissioner Abell: He's making short order of this.

President Melcher: Okay, I'm hurrying.

Public Comment

President Melcher: Public comment? Anybody? I was watching the clock. Public comment? Anything else from any of the Commissioners? Do you have anything else that you want to say?

Jeff Mueller: No, not tonight. Thank you, Mr. Melcher.

President Melcher: Okay, so with that, I'll entertain a motion to adjourn.

Commissioner Kiefer: Move to adjourn.

President Melcher: Do I have a second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We are adjourned.

(The meeting was adjourned at 6:27 p.m.)

Those in Attendance:

Stephen Melcher

Joe Kiefer

Marsha Abell

Jeff Mueller

Joe Harrison, Jr.

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
JANUARY 22, 2013**

The Vanderburgh County Drainage Board met in session this 22nd day of January, 2013 at 6:12 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board for January 22, 2013.

Attendance Roll Call

President Melcher: Do you want to go ahead and call attendance, I guess.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Here.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Here.

Madelyn Grayson: President Melcher?

President Melcher: Here.

Pledge of Allegiance

President Melcher: If you would all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the January 8, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Preliminary Drainage Plan: Enclave at Eagle Crest

President Melcher: The preliminary drainage plan, Enclave at Eagle Crest. Jeff?

Jeff Mueller: We received a preliminary drainage plan. If you all don't mind, I was wanting to give you a couple of sheets here. Being the new Surveyor, when we talked about a preliminary plan, I thought it would be good to go through the plan and see what it was that's required. I worked with John Stoll, the County Engineer, and we actually came up with this little checklist, so that we have something in our file that we can say we went through this preliminary plan and we looked at the criteria for what's in your regulations. In summary, one thing to note was that everything that's required for the plan is there, except for one item, and that is that it requires that the culverts have the specific materials, the elevations, the waterway openings in the basis of their design. Now, I went back and looked at a lot of the other preliminary plans, and they don't have that information either. To be honest with you, to request that information in the preliminary plan is going to run an engineering firm through a lot of numbers. So, my recommendation is that other than the fact that that's not there, but I think there's sufficient information there to review the plan. Both John and I reviewed the plan, one thing is that there is some drainage that will run off into INDOT right-of-way, and INDOT's going to have to approve that, because the way the drainage plan is set up, it's going to be some areas are not going to go through detention, but the detention basin's design will still meet the overall criteria of whatever's coming off, on a 25 year storm will only come off at the rate of a ten year storm. So, it's my recommendations that the preliminary plan that's been submitted meets the criteria for the specifications. Therefore, requesting approval of it.

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

President Melcher: Marsha, we need a second.

Commissioner Kiefer: Do you have more questions?

Commissioner Abell: Yeah.

President Melcher: Well, second it, and then we'll discuss.

Commissioner Abell: Okay, second.

President Melcher: Okay, now you can—

Commissioner Abell: Are we not to know who the developer is?

Jeff Mueller: It's on there. It's, oh, it says Old Orchard Development is the developer.

President Abell: I saw that.

Jeff Mueller: Mr. Morley could probably give us a little bit more information on who Old Orchard is.

Commissioner Abell: I checked the voter rolls and there is no one named Old Orchard Development. I'm just kidding.

President Melcher: It's a name she's looking for.

Jeff Mueller: Okay.

President Melcher: Just state your name and the company.

Jim Morley, Jr.: Jim Morley, Jr., Morley and Associates, Project Engineer.

President Melcher: Okay.

Jim Morley, Jr.: Our, the representative for Old Orchard is Dan Buck.

Commissioner Abell: That's what I thought. Okay. That's fine. I was just trying to decide if it was the same development that I thought it was. That's why I was wondering.

Jim Morley, Jr.: If you don't mind, I would like to make a comment.

Commissioner Abell: Sure.

Jim Morley, Jr.: The, Mr. Mueller talked about that one item being left off of the preliminary report, and to the best of my knowledge, and I think John would agree with me, I've been doing preliminary drainage reports in Vanderburgh County for 15 or 16 years, and we've never done that. That's an item that shows up in the drainage ordinance, but it's an item that has been routinely overlooked, not enforced, not used, I don't know what term that you want to use there, but I don't know that anybody or anyone that's done it in the last 15 or 16 years. It's just one of those things that was never, it was in there in text, but never requested in the real world. I share with Mr. Mueller, you know, there are probably other items in that ordinance, because that ordinance has been around for so long, that may need a freshening up of, if you will. That item there is, that information is information that we provide at the time of final design. It's all done then, however, in an effort to, because this still has to go to Plan Commission and have the plat approved, there's a chance there won't even be a subdivision, you know if it fails at Plan Commission. To do that amount of design in advance would, to be honest with you, really run up the bill for the developer on a project that may or may not happen. So, that's why it's not there, but to be honest with you, it's never been there that I'm aware of. John, would you—

Commissioner Abell: Okay.

Commissioner Kiefer: Can I, oh, I'm sorry.

Commissioner Abell: Go ahead.

Commissioner Kiefer: Can you better spell out where this is. I don't know where Felstead Road is. I apologize.

Jim Morley, Jr.: Do you know where Schutte Road in on the Lloyd?

Commissioner Kiefer: Yeah, okay.

Jim Morley, Jr.: It's the next intersection east of, before you get to Schutte. It's not a signalized intersection. It's about 600 feet before you get to Schutte, there's an intersection there.

Commissioner Kiefer: Okay.

Jim Morley, Jr.: But, it's not signalized, it's just a cross over.

Commissioner Kiefer: Okay, that's fine.

Commissioner Abell: That's actually why I wanted to know, because I was trying to figure out if it was the same one that I—

Jim Morley, Jr.: Yeah, this development, do you know where the Eagle Village Apartment complex, the student housing apartment complex is? It's directly east of there. That's who the adjoiner of this property is, is that apartment complex.

Commissioner Kiefer: But, as far as you're concerned, it meets the requirements?

Jeff Mueller: Yes.

Commissioner Kiefer: I mean, that's what your report says anyway.

Jeff Mueller: Yes.

Commissioner Abell: To go forward?

Jeff Mueller: Yes.

Commissioner Kiefer: To go forward.

Jeff Mueller: That's correct.

Commissioner Kiefer: There will probably be other things that will come before the Commissioners on this, I'm sure.

President Melcher: Well, this is only preliminary.

Commissioner Kiefer: Yeah. Okay.

President Melcher: Any other questions? I would entertain a motion.

Commissioner Kiefer: I think we already did that.

President Melcher: We did that, didn't we? Roll call vote.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Commissioner Abell: Thank you.

Discussion of the Planned Dates for 2013 Drainage Bids

President Melcher: Next, discussion of the planned dates for the 2013 drainage bids.

Jeff Mueller: Just to let you know, on the third page of information, I kind of put together what we thought we would be coming in with you, which was a, the next meeting we would bring in the maintenance specifications to the board for approval to advertise. Then that following day, assuming that you approved it, we would be sending out packets, and then having the advertisements run on February 8th and February 15th, with the bids due prior to the February 26th meeting, where they would be opened. They would be taken under advisement, and then on March the 12th the awards would be made. Just kind of a little schedule to give you an update on where we are on that, and kind of let you know what was coming.

President Melcher: Okay, any questions? We don't need a motion on this though.

Commissioner Abell: No, I wouldn't think so.

President Melcher: Okay, thank you.

Other Business

President Melcher: Next, other business. Is there any other business?

Commissioner Abell: I don't have any.

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims.

Jeff Mueller: I've got some yes.

President Melcher: So, we're going to need a motion on payment of these claims.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: Any discussion?

Commissioner Abell: Well, I would just like to take a look at them first.

President Melcher: Well, they're coming.

Jeff Mueller: There's approximately \$4,000 of claims. Most of them are 15 percent, there is one that's for 85 percent. The exact total is \$4,824.30. It's being paid to five different contractors, on a total of 11 ditches. Like I said ten of those are for the last 15 percent, and one of those, on Maidlow, is for the first 85 percent.

Madelyn Grayson: President Melcher, in the past the Drainage Board has given me authorization to stamp the Commissioners names.

Commissioner Abell: Oh, yeah.

Madelyn Grayson: If you're okay with that, do you want to continue that process?

President Melcher: Yes, but she, yes.

Commissioner Abell: Yeah.

President Melcher: Okay, while she's looking at them...okay, did we do a motion already?

Joe Harrison, Jr.: Yes.

President Melcher: That's what I thought. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Public Comment

President Melcher: Any public comment? Okay, we'll stand adjourned then. Thank you.

Jeff Mueller: Thank you.

(The meeting was adjourned at 6:22 p.m.)

Those in Attendance:

Stephen Melcher
Jeff Mueller
Jim Morley, Jr.

Joe Kiefer
Joe Harrison, Jr.
Others Unidentified

Marsha Abell
Madelyn Grayson
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
FEBRUARY 5, 2013**

The Vanderburgh County Drainage Board met in session this 5th day of February, 2013 at 5:39 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board. It's February 5, 2013, we're starting a little later than I thought, but we'll make it.

Pledge of Allegiance

President Melcher: If we could just rise for the Pledge.

(The Pledge of Allegiance was given.)

President Melcher: Thank you.

Approval of the January 22, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Kiefer: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Thank you.

2013 Drainage Specifications

President Melcher: Okay, the 2013 drainage specifications.

Jeff Mueller: Yes, I've got a thick handout, which you may not be interested in, but it's there. Then, I've got a few summary pages up front.

Commissioner Kiefer: How nice.

President Melcher: Have you got one for Marsha too?

Jeff Mueller: Yeah, I do.

President Melcher: Okay.

Jeff Mueller: Do you want it now?

President Melcher: No, no, but we just want to make sure that she gets hers.

Jeff Mueller: Okay. What we have, so you know, is we're, we've got bid specifications for 27 different ditches. Rather than, you're certainly welcome to look through or go through the book, but what I did was, I summarized this on four pages, the ditch names and the, there's essentially five activities that we would be, a potential of up to five activities, and I just put an "x" under the activities that would be going for that particular ditch. So, you've got the ditch name, you can see, you know, what township it's in, give you a feel for what part of town, and then, you know, what we're doing. Then I have a little sheet, a one page sheet that just kind of tells you, you know, what does sterilizing of ditch bottom mean, or broadleaf herbicides/brush killer. That's kind of, this is kind of a simplified what that big, thick folder is. So, I didn't know if you wanted to go into anymore detail with it.

President Melcher: No, no, is this similar to what they've done in the past?

Jeff Mueller: Yes, sir.

President Melcher: Because, we've actually never seen these sheets in the past, we just knew that they sent sheets out.

Jeff Mueller: Yeah, so the package that you have in the folder is the whole package that goes out.

President Melcher: Okay.

Jeff Mueller: Okay?

Joe Harrison, Jr.: And, this is just a cheat sheet on—

Jeff Mueller: Yes.

Joe Harrison, Jr.: — and telling us exactly where all of this is for each one—

Jeff Mueller: Yes.

Joe Harrison, Jr.: — and what specifically you're asking someone to submit a bid on for those particular ditches.

Jeff Mueller: Yes.

Joe Harrison, Jr.: Okay, good. It tells us what township they are in and the legal description, basically.

Jeff Mueller: Because, I know if you're like me, you're driving around and you're sitting there, is that ditch a county drain? Is it, you know, is it something that we maintain. So, it's kind of nice to have that sheet to kind of know what's going on.

Commissioner Kiefer: You don't, are you responsible for all ditches, even in the city?

Jeff Mueller: No. There are some city ditches we are responsible for, but we're not responsible for all ditches, either in the city or in the county. It's just if they were a regulated drain.

Commissioner Kiefer: Okay.

Jeff Mueller: Okay? Only the regulated–

Commissioner Kiefer: So, if it's a regulated drain–

Jeff Mueller: –meaning that sometime years ago, the property owners through a process, it's in the regulations, came before the county and requested that the county take over the maintenance. There's a couple different ways of doing it, one is if all of the property owners that are in the watershed agree to it, or the other is if a single owner does and brings it before the county and they can determine that at least over 50 percent of those property owners would gain by the county maintaining it, then it becomes a regulated drain.

Commissioner Kiefer: Okay.

Jeff Mueller: Yeah, so, you're like me, Joe, I'm driving along and I see a drain and I'm like, oh, man, there's a logjam, it's like, oh, that's one's not our baby, it's the property owners. So, yeah, it's, but that will help you out a little bit.

Commissioner Kiefer: Yeah, okay. Thank you.

Madelyn Grayson: We just need permission to advertise the notice to bidders in the paper.

Jeff Mueller: Yes.

Commissioner Kiefer: Oh, I'll make a motion to advertise in the paper as specified there.

President Melcher: Okay, I'll second it. Any discussion? All in favor say aye.

Commissioner Kiefer: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Thank you.

Cherry Hill Drive Drainage Complaint

President Melcher: Cherry Hill Drive drainage complaint.

Jeff Mueller: Yeah, I brought this up just because it's kind of been, it's been an ongoing issue, and I just wanted to kind of tell you about it so that if somebody would give you a call, or if somebody would come to a meeting and want to talk about it you would already have heard about it, and, you know, kind of let you know. Just a quick summary of it, not that we're asking to do anything on it tonight or anything, but, just like I said, just a quick run through. This is Cherry Hill Drive, I did not put this on a map, but it's over close to the intersection of the Lloyd, or Highway 62, and the USI expressway. From the air this kind of shows you a little bit, the expressway would be right over here, and, I'm sorry, the Lloyd Expressway would be over here (tape flip),

and this is the Cherry Hill Subdivision. These are some pipes, the County Engineer's office did this, but we've had complaints from this house and this house back in September when there was a big rain, and then here last week again. John Stoll and I have both been out there more than once, as a matter of fact we were just out there about a week and a half ago, and then looking at that. I'm going to kind of show you kind of the problem, if you see this little basin right here, I'm going to kind of show you the issues. We're going to talk about....I'm going to show you three pipes; one here, one here and one here. The first picture is the pipe that comes out of the subdivision, but you'll also notice that there's a swale there, which you'll see in a minute why I'm pointing that out. This pipe, if you were standing in the ditch and then you did a 180, flows into this pipe right here. Then, that pipe then flows into the basin, and that's it right there. This other pipe takes the drainage from the health campus. Okay? Now, I'm going to go back, there's been two pictures taken by this house that I'm going to show you. One is this one—

Commissioner Kiefer: Nice pond.

Jeff Mueller: — and then this is looking the other direction. If you look, you'll see that white fence. I'm going to show that up to you again there. There's that white fence, that's that pipe. Okay? What, I want to show you a couple more things on that pipe and then I'll tell you what John and I are thinking. If you'll notice, the pipe, there's been some erosion, there's been water that's come over the top of the piers. You can even see it there again in that grass. I'm going to go back to this picture. If you'll notice on the pipe, the very top of it, you can see grass hanging over it. What John and I think, there's more than one problem out there, but the problem that's been brought on by this particular issue is that this really needs to be an open swale. Then, we're not saying that the subdivision's problem are going to go away, but we think that this will definitely help if that pipe was opened, taken out and it was opened up as an open ditch. It would be able to carry a lot more of that flow. So, right now, John, I'm speaking for John, I hope he doesn't mind. John has contacted the engineer to see if the Evansville Health Center, I believe it is, if they would be amenable to taking that pipe up and opening that ditch up for us. So, that's kind of where we're at right now. We just wanted to bring this forward so that if you talked to anybody out there, that, you know, it's not been something that we haven't been trying to work on, haven't looked at.

President Melcher: Okay. Who owns that property right there?

Jeff Mueller: It's the Evansville Health Campus. It's a nursing, assisted care—

President Melcher: I was hoping so when you said that. That's why I asked that question.

Commissioner Kiefer: Yeah, I think I know who those folks are. The Ramsey family, I think owns that. They, I talked to him about this a little bit, and he acted like they would be willing to cooperate.

Jeff Mueller: Okay. I mean, I don't think it's going to solve all the problems in the subdivision, but I do think it will definitely help, and, you know, I think it will, you know, help take them out of the equation at least.

Commissioner Kiefer: That sounds reasonable. I say move forward with it.

Joe Harrison, Jr.: Well, they're going to have to go along with it.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: Yeah.

Commissioner Kiefer: Well, if I need to help, I , you know, I know Chris Ramsey. He's the one I talked to, and if you need my assistance, let me know.

Jeff Mueller: Okay. The way we've left it, John has been contacting Glenn Merritt, who was the engineer with Cash Waggnner, and Glenn was going to talk to them. So, we've kind of just went that low key route right now to see if--

Commissioner Kiefer: Yeah, I mean, run the traps--

Jeff Mueller: Yeah.

Commissioner Kiefer: -- and if you run into a stumbling block, let me know, and, like I said, I know the owner, so I would be glad to make a call if I have to.

Jeff Mueller: Okay.

Commissioner Kiefer: But, you do your work first, and you, hopefully, will never have to call me.

Jeff Mueller: Okay, like I said, this was kind of an FYI, wanted to let you know about it. Didn't really have anything on it beyond just showing you some pictures and explaining it a little bit.

Other Business

Jeff Mueller: That's really all I have for tonight on the ditches, or on the whole, on the Drainage Board for tonight. I don't have any claims for tonight.

President Melcher: Okay.

Public Comment

President Melcher: So, does anybody in the audience have anything to say? Yes, no? Anybody? Got anything, Joe?

Commissioner Kiefer: No.

President Melcher: Joe, do you got anything?

Joe Harrison, Jr.: No.

President Melcher: Alright, I'll take a motion to adjourn.

Commissioner Kiefer: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Kiefer: Aye. I'll hit it for you.

President Melcher: Aye. Okay, thank you.

(Motion approved 2-0)

President Melcher: Adjourned, thank you. Thanks everybody for coming this evening.

(The meeting was adjourned at 5:49 p.m.)

Those in Attendance:

Stephen Melcher

Joe Kiefer

Jeff Mueller

Joe Harrison, Jr.

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
FEBRUARY 26, 2013**

The Vanderburgh County Drainage Board met in session this 26th day of February, 2013 at 6:00 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board of Vanderburgh County. It's February 26th, it's 6:00.

Pledge of Allegiance

President Melcher: If we could go ahead and have the Pledge. Mr. Harrison, would you like to lead us in the Pledge this evening?

(The Pledge of Allegiance was given.)

Approval of the February 5, 2013 Drainage Board Meeting Minutes

President Melcher: Okay, we need a motion for approval of the previous meeting's minutes.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

2013 Drainage Maintenance Bid Opening

President Melcher: Now, I guess, we need a motion to open up the, all the drainage bids that were received.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: So you can start opening them up. We'll move on with our meeting and come back in a half an hour and see where we're at. We'll see.

Commissioner Abell: If it takes longer than that, you can stay here by yourself.

Linda Freeman: I told Jeff he had to have a few stories to tell.

President Melcher: Yeah, or sing and dance or something.

Ditch Assessments (2012 Tax Assessment Payable 2013)

President Melcher: Ditch assessments, 2012 tax assessment payable 2013. You're going to talk about that?

Jeff Mueller: Yes. Okay, Mr. Melcher, what I've handed to you is a spreadsheet. I'm not sure in the past how this was handled, but what I wanted to do was go ahead and bring this before the Board. These are the ditch assessments. The rates that we're proposing are the same as has always been proposed. It's a matter of whether we bill or not. The first set of, which is titled Group I, are ditches that will not be billed. The reason for that is because the assessment, after the assessment the balance is of sufficient manner that it's over four times the estimated work. So, therefore, it's my recommendation that we don't bill. Actually, if it's over eight times, we can't bill. If it's over four times, you have to have a public hearing. So, there's sufficient dollars in those balances, so, therefore, my recommendation would be that we would not bill the ditches in Group I.

President Melcher: Okay, let me ask a question then. If we're not going to bill them and they're probably expecting a bill, and hoping not to get one, would you send them a notice saying that we have sufficient funds at this time and you're not going to be receiving a bill?

Linda Freeman: That's a lot of postage.

Jeff Mueller: Yeah.

President Melcher: Yeah, but, I still think....I'll think about that then.

Jeff Mueller: Okay.

Linda Freeman: Well, we don't bill every ditch every year.

President Melcher: So, they know that?

Joe Harrison, Jr.: Yeah.

Linda Freeman: They, yeah, I mean, we, typically, we look at our balances and stuff and see, so, people, yes, do and do not receive a bill on and off. Some ditches get billed pretty much every year. Some ditches are hit and miss, not hit and miss, I shouldn't say it that way, but it's like we need the money, the funds, because this just stays in the watershed. This isn't like, per se, an overall tax type thing.

Jeff Mueller: Four of those ditches weren't billed last year.

President Melcher: Well, then could we put anything up on the internet then?

Jeff Mueller: Certainly. We could do that.

President Melcher: I mean, if they go to the website.

Linda Freeman: Yeah, typically they'll call. They call the office and—

President Melcher: Okay.

Linda Freeman: —they didn't get one. Most of the time it's the five dollar bills that they do get, and they complain that we didn't mow the ditch in their back yard or their front yard. That's not the ditch that we're dealing with.

President Melcher: Okay, thank you.

Jeff Mueller: The second group of ditches are ditches that we would go ahead and bill. Again, we would be billing at the same rate as the historical rate has been for those ditches. There's no increase or decrease. The third group of ditches, I only highlight these just because of the amount of dollars in them. After looking at them you'll notice, for example, Eagle Slough, which is that large ditch that kind of essentially follows I-164 and ends up over by the Waterworks. It's got a \$110,000 balance, and we anticipate an assessment of about \$33,000, but our estimated bids, you know, that they're opening right now, Linda's told me they don't change a whole lot, is \$44,000. So, even though we have a pretty nice balance in there, we're kind of eating away at it each year. So, my recommendation would be to go ahead and continue billing that, because otherwise we're going to end up eventually running out of money in that. Likewise, on Eastside Urban, you can see there's a quarter of a million dollars in that one, but yet our assessment rate is \$110,000, but if we get the same type of bids we got last year at \$163,000, we would be biting into that by, you know, \$53,000. So, on both of these, the assessment balance, I'm sorry, the balance after the assessment would still be below the four times. So, my recommendation would be that we would go ahead and do that, but I wanted to let you all see that and get your thoughts on it, just because they are some pretty sizable dollars.

Commissioner Abell: Mr. Mueller, could you tell me what the Eastside Urban, what is that?

Jeff Mueller: It entails a series of ditches, it's that, the one that runs along the railroad tracks, and the ones that tie in, what is that, along Burkhardt Road and kind of that general area around the shopping center—

Commissioner Abell: Oh.

Jeff Mueller: — Eastland Mall and that. So, it's kind of that, if I had a map I could show you, but it's kind of that whole general area.

Joe Harrison, Jr.: It kind of runs down Morgan, doesn't it?

Jeff Mueller: Part of it does.

Joe Harrison, Jr.: Part of it.

Jeff Mueller: There's a series of ditches through there, yeah, but yeah.

President Melcher: The one that runs into the Wesselman's?

Jeff Mueller: Yes, sir.

President Melcher: That's the Eerie Canal.

Jeff Mueller: Yes. The Eastside, when we talk about Eastside Urban, it's actually a combination of like, I think, five ditches, I think it's five, that have five different names. That's one of them. One of the names is, a portion of that ditch is called Wabash Eerie Canal Ditch, yeah.

President Melcher: Okay.

Jeff Mueller: Okay? So, the reason, like I said, it's some hefty dollars, and my thought was, boy, we've got some nice balances in there, but yet we're eating away at the balances at the same time. So, we did not bill Eagle Slough last year, but that was, Linda, before that it's been awhile, hadn't it? It's kind of been on and off.

Linda Freeman: Yes.

Jeff Mueller: Eastside Urban we've pretty much billed every year. I think the last time that wasn't billed was in 2005. So, my recommendation is that we go ahead and bill these, even though, like I said, they have some pretty sizable balances, but we're also eating into that balance at a good rate. Finally, well, not finally, the next group is Group IV ditches. Unless we, you can see some estimated bids in these of \$399 for Barnett, they're kind of highlighted, \$1,835 for Cypress Dale, Edmond at \$778 and Kamp at \$507. We think all of our bids are going to come in below that. So, we would not recommend doing any of those assessments, but if they come in higher, then I would recommend going ahead and doing the assessments. We'll kind of have a feel for that tonight, but the only thing I'm asking there is just the flexibility of if they come in over that we'd go ahead and use the, we would go ahead and bill them, but, if not, we would not bill them, based upon, like I said, falling above or below that four times.

President Melcher: Okay.

Jeff Mueller: Then the last group is Group V ditches. I only separated those just so you know, both of those ditches, those are actually funds that we tax for, but the watersheds are, in the case of the Upper Pigeon Creek is in Gibson County, but that's the portion of properties that are in that watershed. Likewise, the Weinsheimer, which is Warrick County, Gibson billed us the last time in 2005 for some money. Warrick hasn't billed us in awhile. It's my understanding that, you know, Mr. Jeffers was always willing to give them the money, but he wanted to see what they were going to do with it first. So, he was kind of waiting on a plan from them. So, those two are just kind of sitting there right now. I would like to get with both of those counties and find out what their plans are long term though, instead of just, you know, collecting money. It's not a lot of money, it's \$311 on one and \$373 on the other. So, but what I would like to do is, it's, I talked to Mr. Harrison today, it's not real clear exactly whether we need the Board approval to go ahead with these or not, but I wanted to bring them before the Board. I would like to give these rates to Joe tomorrow. Joe Gries is going to be getting his other information from the State, and that way he'll be able to start on his tax bills, between having these rates, the rates from the State and the other rates that he has to have.

President Melcher: Any questions?

Commissioner Kiefer: I was just going to say I would like to approve them, just because I like being informed about these and knowing about them and having the opportunity to give our blessing, if it's possible.

President Melcher: So, are you making a motion?

Commissioner Kiefer: Yeah, so I'm making a motion to approve.

Commissioner Abell: I'll second, but I do have a comment/question. I'm wondering if, on the ones when we don't bill, I mean, the bills go out with the tax bills anyway, correct? I mean, it's not special—

Jeff Mueller: Yes, that's correct.

Commissioner Abell: Why don't we just, on the ones that we don't normally bill, just bill a dollar every year.

Linda Freeman: The minimum bill is five dollars.

Commissioner Abell: Oh, the minimum bill is five dollars. I just hate to see us get to the point where we're sitting here thinking, you know, I would be really, really unhappy if I bought a piece of property and I had just seen that they had never had an assessment and then next year I get a bill because you've got a problem and I got a big assessment stuck on there.

Linda Freeman: It's not, it doesn't typically go that way. It's not a big assessment. A lot of them are a five dollar bill if you live in a subdivision. Some of the rates are like \$1.10 per acre. So, unless you own more than five acres you're not going to get a bill, I mean, it wouldn't even be over five dollars.

Commissioner Abell: So, they're never huge assessments?

Linda Freeman: No, just the farmers, you know, that own large tracts, and those guys are so used to this, you know, the Union Township farmers, the Big Creek Drainage Association folks, the eastside farmers.

Commissioner Abell: Okay.

Joe Harrison, Jr.: They're certainly used to it.

Linda Freeman: Yeah.

Joe Harrison, Jr.: They look for it.

Linda Freeman: Yeah, if Eldon, Eldon Maasberg in the audience, if he doesn't get his, he's like, hey, I didn't get billed for this.

Commissioner Abell: Well, we could send him a few.

Linda Freeman: Well, yeah.

Joe Harrison, Jr.: But, I think probably what you want to do is just accept his recommendations, and then he can report back maybe at the next meeting on what actually—

Jeff Mueller: Yes, yes.

Joe Harrison, Jr.: – if you deviated from this.

Jeff Mueller: Right, that would be correct.

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

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay.

Cherry Hill Drive Drainage Complaints Update

Jeff Mueller: The next item on the agenda, Cherry Hill. I just wanted to let you know that, you know, John Stoll and I went out there a week ago Friday and met with two of the homeowners. There's been some communications back and forth, and if we recall, at the last meeting we were kind of like we were going to try a few things and see if we could get the engineer to convince the owner to take that pipe out. We haven't been successful. Mr. Kiefer had offered to talk to the owners. So, that's where we're at in the court right now. Did you get my e-mail?

Commissioner Kiefer: Yeah, I just saw your e-mail.

Jeff Mueller: Is that what you were looking for?

Commissioner Kiefer: Yes.

Jeff Mueller: Okay. So, I'm kind of punting the ball to see if he has any luck with these folks.

Commissioner Kiefer: Yeah, I'll make the effort to call. I know the owners, so, I can't guarantee anything, but I'll give it my best shot.

President Melcher: Okay, is there anybody in the audience here for that? Okay, because I don't know anyone. Alright.

Jeff Mueller: Okay.

President Melcher: Do you want to move down to other business then?

Ditch Maintenance Claims

Jeff Mueller: I've got ditch, I've got maintenance claims, ditch claims.

President Melcher: Okay.

Jeff Mueller: Those claims, let me bring them forward here. I apologize here, I'm looking for a piece of paper. The total claims are \$7,543.34. There are three vendors; Big Creek, Shideler Spray and then Union Township Ditch Association.

Most of these are 15 percent. There is one for 85 percent and one for 100 percent. That 100 percent was one that just kind of fell through the cracks last year. So, we're recommending paying the full thing. So, and they're on one, two, three, four, five, six, seven, eight, it looks like about 15 ditches or something. It's not a lot of dollars on any one of them.

President Melcher: Okay. I need a motion.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Any discussion? Seeing none, all in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: Thank you.

Other Business

President Melcher: Is there any other business now that you have?

Jeff Mueller: I don't have any business, but I think there's someone in the audience that does.

Commissioner Abell: Well, before you get to them I have a question of you, if you don't mind, Mr. Melcher.

President Melcher: No, go ahead.

Commissioner Abell: Are you familiar with the sinkhole problem they are having at Willow Creek Subdivision? Around water drainage that was put in by the developer.

Jeff Mueller: Willow Creek? Where's that, Marsha, where is that at?

Commissioner Abell: I don't know.

Jeff Mueller: I'm trying to think.

Commissioner Abell: I'm not sure, but I've been getting e-mails....oh, Mr. Stoll, do you know about it? Maybe you can tell us what's going on out there.

Jeff Mueller: Oh, I am, okay, I know which subdivision you're talking about now, on the west side, the one we're talking about.

John Stoll: Yeah, it's out off Streuh Hendricks Road.

Jeff Mueller: Yeah.

John Stoll: The, I had an inspector out there and it appears that there are some sinkholes forming as a result of either pipe separations or the risers on the manholes are not properly grouted and sealed, so the dirt is washing through the joints of the pipe and then causing the sinkholes. That subdivision pre-dates the current drainage ordinance. So, because of that there was no provision for the two dollar a foot maintenance fee to be paid where the county accepts the pipes. So, the notes on the subdivision plat said that the homeowners are responsible for the maintenance of all easements on their lots, which means that the problem associated with the pipes then goes to the property owners. It's a, I don't remember the diameter of the pipe or the depth of the pipe, but it was a larger pipe and it was deeper than most as far as what we usually see in subdivisions, so that just compounds the problems and then runs the costs up higher.

Commissioner Abell: Have you told this to those people that live out there?

John Stoll: I have been in communication with one resident. He was the one, he may have been the one that you got an e-mail from—

Commissioner Abell: Yeah.

John Stoll: —requesting a meeting among, I believe you, me and all of the neighbors who are affected by this, but he's the only one that I've talked to, and it's been more trading e-mails than anything.

Commissioner Abell: But we have absolutely no skin in that game?

John Stoll: None that we've found.

Commissioner Abell: Okay.

John Stoll: All of the plans for Willow Creek, for those sections of Willow Creek, were approved prior to the '94 drainage ordinance. The subdivision plat was recorded prior to the '94 ordinance, so there just weren't provisions in there for the county to accept the pipes. So, unfortunately, for the residents, they're stuck with it. It's, the developer followed the plans, and unfortunately there's a failure going on.

Commissioner Abell: Okay, well, I just needed to know, because I got some of those e-mails. Thank you.

John Stoll: If I need to do something, let me know, I can talk to you about it some other time, but, as far as details, but I've been in communication with the one resident. If I need to do more, just let me know.

Commissioner Abell: Okay, thank you.

John Stoll: Sure.

Jeff Mueller: Now that you mention it, I have seen the sinkhole, but not on official business. I just happened to be out there and see it one day.

Public Comment

Jeff Mueller: Anyway, that's, as far as the existing business that is on the agenda, we do have, I believe a party here that would like to talk to the Drainage Board regarding an issue on a submittal of a drainage plan. International Technologies, is that correct?

Mike Brady: Invironmental Technologies.

Jeff Mueller: I'm sorry, Invironmental Technologies. I'm sorry, wrong name. Do you guys want to come up and talk?

President Abell: Yeah, you can come on up, it's public comment. So, just state your name and company and that.

Rick Martin: Thank you. I'm Rick Martin with Martin and Martin Attorneys in Boonville. I have also here with me, Mike Brady, who's President of Invironmental Technologies. The issue, and I've spoken with Mr. Harrison about the issue here, last week and earlier this week, but my client received a letter, I think from the, it looks like the County Surveyor, dated January 31st concerning a drainage issue that he has. He's relocated his business from Warrick County to Vanderburgh County here probably within the last six months, and basically due to business growth and expansion, and, you know, that's good and business is good and he's a growing business. They're needing to put in a parking lot there in the location that they built. Right now it's gravel, there's water standing in it, the trucks, they're in the recycling business and our trucks can't get in and out. It's really caused a great deal of difficulty for him moving forward with his business plans here. The delay or hold up, if you will, the property, I think, if my directions are correct, to the west of you is the American Red Cross. The drainage from their parking lot, they sit higher than he does, and the drainage from their parking lot, essentially, they've got some, they've got a drainage sump, they've got some drainage pipes that are buried underground that essentially divert the water flow from their parking lot and the water, the surface water from their parking lot and from their down spouts. All of that is actually located on his property. That was discovered when he formulated plans and began to construct the parking lot. At this point in time, I think the letter he got from the, and, I guess, the immediate issue from the Surveyor, dated January 31st, indicated that they wouldn't approve his permits to complete the parking lot unless and until he submitted a drainage plan. I think that it also indicated here, submit a drainage plan to show how the drainage coming from the west onto your site will be handled. Here's where we've been running into the problem because we've, you know, both my client and I have reached out to the Red Cross, and I've spoken with their attorney, which the only attorney they've given me to speak with is in Washington, D.C., trying to get something worked out with them. They've been pretty much non-responsive.

Commissioner Kiefer: Where is this location at again? Are you—

Mike Brady: (Inaudible. Not at microphone.)

Commissioner Kiefer: That's what I meant, your off—

Mike Brady: Near St. Joe and Mill Road, sir. Locust Creek Drive.

Commissioner Kiefer: Okay, well, that's why I was confused on the Red Cross.

Mike Brady: (Inaudible) Motoux Park.

Commissioner Kiefer: Okay.

Jeff Mueller: Right across from the landfill.

Mike Brady: No.

Commissioner Abell: Yeah, right across, catty corner from the County Garage.

Commissioner Kiefer: Catty corner, I didn't know the Red Cross had a facility there.

Commissioner Abell: Oh, okay.

Rick Martin: Yeah, their blood bank.

Commissioner Kiefer: Oh, okay.

Mike Brady: It is the blood bank.

Commissioner Abell: You kind of sit higher, that kind of goes up.

Mike Brady: They sit at the top and I'm one tier down, and then Evansville Tool and Die is below me.

Commissioner Abell: Okay.

Commissioner Kiefer: Okay, that's what threw me off, because when you said Red Cross I was thinking Lloyd.

Rick Martin: Okay, you're thinking the one off of the Lloyd then, alright. Sorry about that, that would be a little confusing.

President Melcher: I'll make it unanimous. I did too, and I know about all of that property out there, and I'm thinking, you can't be there. Well, now that we know it's where our Garage is at.

Joe Harrison, Jr.: This is the thing, there was an issue with Area Plan, and that's kind of what started it, they went to Site Review, I think, to try to get approval, and, obviously, the Surveyor and the Engineer are on the Site Review committee. There were some issues regarding water and a wall they were going to put up, and, I think, really what needs to happen is, it might be a good idea if they communicate with the Red Cross and try to work something out. I think the Surveyor would like to see that, and I'm sure the Engineer would too. I don't now, maybe even the Engineer and the Surveyor could try to meet with the parties, schedule a meeting and see if the matter can be resolved before it goes back to the Area Plan Site Review, and maybe they can work something out, if this Board thinks it's a good idea for them to meet, rather than delaying this thing. Because, apparently, they, Area Plan's not going to sign off on it until they get these issues worked out. Is that my basic understanding?

Mike Brady: No, sir.

Joe Harrison, Jr.: It's not? Area Plan's not going to approve it?

Mike Brady: The Surveyor's Office is the only one who refused to approve it.

Joe Harrison, Jr.: Well, no, no, no. It's Area Plan's Site Review has to approve it.

Rick Martin: I think he's correct on the technicalities there, Mike, of where it is in the process.

Joe Harrison, Jr.: I mean, it's, that's it. To me it would be worthwhile to see if the parties could discuss the matter, as opposed to talking on the phone with someone out in Washington, D.C.

Rick Martin: Well, and, I think we would probably need the assistance, because, you know, he's been trying, I've been involved for what, Mike, two, three months now trying to get something done with the Red Cross?

Commissioner Kiefer: Is there no other solution? I want to see this business guy be successful.

Joe Harrison, Jr.: Yeah.

Commissioner Kiefer: I don't want to see you slowed up. I mean, people won't want to come to Vanderburgh County.

Mike Brady: Five months.

Jeff Mueller: I would like to make some comments.

Mike Brady: Five months, sir.

Commissioner Kiefer: Yeah, but, I meant, I'm just asking, is there some other solution. I mean, the Red Cross has got him hostage right now. That's disappointing to hear that our local Red Cross is doing that, but, I mean, that's the way it sounds to me. I don't want to make accusations, but—

Mike Brady: I will.

Commissioner Kiefer: — I just want somebody to help this guy out, if it's possible. If we can do anything here, as part of the Drainage Board, I want to do it.

Jeff Mueller: I would like to point out a couple of things.

President Melcher: You're going to have to come up to the microphone.

Jeff Mueller: This was—

President Melcher: Because I was coming back to you.

Jeff Mueller: — yeah, this was brought up under Site Review in December 6th of 2012. At that time Mr. Jeffers was the Surveyor, and he was the one that required it. I went back and looked at it, and I agreed with his comments on that. Now, my understanding is the reason it went to Area Plan was that originally the parking lot expansion occurred without a permit. At that point they stopped the expansion of it,

and then it went to Site Review and right now that's where it's held up, because we're waiting for a drainage plan. Okay? I've heard from both sides, and I feel like I'm just stuck in the middle. It's one of these finger pointing things, and it's a very difficult situation. Now, Mr. Stoll is here, and I don't know if he wants to comment on it or not, from the County Engineer's viewpoint.

President Melcher: I just want to see if we can solve it.

Jeff Mueller: I would like to too, but I don't know where to go with it.

John Stoll: I don't want to put words into Bill Jeffers' mouth, but from what I recall from the Site Review meeting, the issue at hand was that if the retaining wall was built along the west line of this property, it was going to block the pipe, the drain from the Red Cross, which in turn created a drainage obstruction, which in turn would potentially come back to the Drainage Board where you would still have the same issue, except Red Cross' drainage would be blocked and then you would have to sort out is it an obstruction that meets the drainage obstruction statutes. So, that's where the problems came in in regards to Site Review.

Commissioner Kiefer: I wish we had some over, you know, some projected pictures of this or something so I could better understand it.

Jeff Mueller: If I can get logged on, I do have some.

Commissioner Kiefer: Because, right now, I'm a little fuzzy on—

Mike Brady: I have some pictures, but not anything I can project.

President Melcher: What's the wall?

Rick Martin: Well, and I'll explain that, and probably some of that goes back to my understanding of what Indiana law provides here. We're not talking about, you know, we're talking about surface water here, basically. We're talking about the surface water from their parking lot, from the roof. Indiana law on surface water is pretty clear that we're, that we follow the Common Enemy Doctrine. The Common Enemy Doctrine basically says that a landowner can take whatever reasonable means are necessary to divert water from their property from an adjacent property. I think the only thing that's prohibited is collecting it, you know, in a single location and essentially dumping it on your neighbor, which for all practical purposes is what the Red Cross is doing to him now. They are actually collecting it on his property and dumping it on him, and nobody is allowing him to remove the features that are on his property that are dumping it on his parking lot. Absence of cooperation from the Red Cross, really the only way I think he can protect his property is to erect a berm or a retaining wall that prohibits their surface water from coming over on to him.

Joe Harrison, Jr.: What is proposed? Is that what is proposed, a wall?

Rick Martin: That's what's proposed at this point in time, unless we can get, you know, we've tried for months to get the Red Cross to cooperate.

Joe Harrison, Jr.: Unless you can work something else out.

Rick Martin: I think that's what we're ultimately going to ask to be approved.

Commissioner Kiefer: Would putting in, instead of a retaining wall, would putting in like a porous...no, I was going to ask like that porous concrete, would that allow the water then to drain down into the ground as if there was no...I'm just asking.

Rick Martin: I couldn't answer that question from a technical perspective, plus I'm not sure where you would put it.

Mike Brady: If I may, sir, when I started this, the asphalt parking lot that was at the property I purchased had standing water on it almost constantly. The drainage ditch to the back of the property was filled in and overgrown and everything else. The reason I tore up the parking lot, without a permit, (a) I didn't know I needed one, honestly, for maintenance, and (b) because I had to get the water to drain off of that parking lot. The asphalt was eaten up. There we are.

Commissioner Abell: We've got it on our t.v. screens now.

Mike Brady: There we are.

Commissioner Kiefer: So, the problem is there's water coming off of the Red Cross property onto your property?

Mike Brady: The problem is they have appliances and PVC pipe on my property, routing their water to my property. Those pipes that you see to the back there, or that you saw in those photographs, they also had a gas and electrical lines on my property, and Vectren moved them, because there was no easement. We offered the Red Cross an easement months ago to allow them to re-route their water to the drainage ditch behind my property, that I put a 15 inch concrete culvert in. My parking lot's drainage drains naturally to that culvert.

Commissioner Kiefer: Can we ask somebody from the Red Cross to attend our meeting?

Joe Harrison, Jr.: Sure.

Commissioner Kiefer: Because this is an issue. I can see his concern, you know, you've got a pipe coming off their property dumping water right on his property.

Commissioner Abell: Well, I'd be more concerned, I'd be seeing them in front of a judge.

Commissioner Kiefer: Well, I just meant, you know—

Rick Martin: We're trying to get it done because that takes a little more time, so that will be our next step if we don't get some satisfaction soon, I can assure you.

Mike Brady: The Red Cross' facility maintenance or management guy is in Cleveland, Ohio, Dominic Remaldy, he's never been to the site. I've asked and asked and asked, and in writing, for him to physically come to the site or send a representative.

Rick Martin: And they, basically, they referred us to their attorney who is in Washington, D.C. So, that's pretty much what we're getting.

Mike Brady: We've offered them an easement at no charge.

President Melcher: I think we need to order them in here.

Commissioner Abell: I do too.

Commissioner Kiefer: Joe has a suggestion.

Joe Harrison, Jr.: I was going to suggest, as a thought, I think you have a meeting the 12th and then you have one on, what, the 26th? Is that right? That the parties can meet before the 26th of March to try to get this resolved, and if no resolution is reached by that time you would like, or are ordering, that the parties show up here on the 26th of March at whatever, 5:00 or whatever.

President Melcher: I don't know if it takes that long. Why can't we just do the same thing for the 12th?

Commissioner Abell: That's what I was wondering.

Rick Martin: That's what we would like to see. We would rather see it sooner than later.

Joe Harrison, Jr.: I don't have a problem with that, but, they may not have a chance to meet between now and then, but if they don't, they don't.

President Melcher: They've had a chance for five months.

Rick Martin: I've got their number, I'll call him tomorrow. I mean, if they're going to do something, they're going to do something. I'll call their attorney tomorrow—

President Melcher: Okay.

Rick Martin: — and move that direction.

President Melcher: Well, would it be better if you called their attorney?

Joe Harrison, Jr.: Well, I would like for your, if this Board wants to make a motion to that effect, I can certainly try to call him, but I want some action by this Board, obviously.

Commissioner Kiefer: I'll make the motion that we—

President Melcher: I was going to get there.

Commissioner Kiefer: I'll make the motion that we request both parties, these two adjoining properties, appear before the Drainage Board on March 12th, so we can have discussion about this issue, these issues.

President Melcher: Okay, we'll take that motion first then.

Commissioner Abell: I'll second the motion.

President Melcher: Any discussion on that? Let's have a roll call vote on that.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: Then I want another motion, or we need another motion to have Joe get a hold of somebody at the Red Cross. I don't care if it's locally or whatever, to tell them what our motion was, and we want them here, or somebody here, and they need to work it out before that meeting.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Any discussion? Roll call.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: I would be more concerned about their stuff on your property.

Commissioner Abell: Yeah.

President Melcher: That seems to be the problem.

Mike Brady: But, I'm being told that I can't do anything about it because that would be impeding or changing storm water flow.

Commissioner Abell: We're going to help you stay in business. You can be assured of that. You know, I think if you don't get anything worked out and they don't show up they just get a default judgement from the Drainage Board.

Rick Martin: Well, I think what we would ask is to approve the plan with the retaining wall at that point. What will happen then is that the water will either back up in their parking lot, or it will divert it out, I don't know honestly what the flow is, but it will back up in their parking lot or it will divert it out into the street, around his property. It may

not be the best solution, but if we can't get them to come to the table to talk with us, you know, there's no way we can direct it anywhere else.

Joe Harrison, Jr.: Can I get you to send me, tomorrow, the addresses that you have—

Rick Martin: Yes.

Joe Harrison, Jr.: — for them?

Rick Martin: I will.

Joe Harrison, Jr.: Whatever address locally and wherever, so we can send them the proper notice. If you have some contact information that would be helpful. If you want to call them, I don't care, but I'll at least get a hold of them locally.

Rick Martin: Okay.

President Melcher: What about Jeff being involved too?

Commissioner Abell: Shouldn't Jeff be involved?

President Melcher: I mean—

Joe Harrison, Jr.: If they want to meet before March 12th, Jeff should be there, and John should probably be there as well. He probably doesn't want to be, but he probably should be there.

Jeff Mueller: That's what we're here for. I mean, you know—

Joe Harrison, Jr.: That's right.

Jeff Mueller: — it's a situation where, you know, like you say, if the Drainage Board decides that, you know, they don't come and you want to go ahead and approve it, I have no problem doing that, following through and going with what we had so far. I don't have any problem with that.

Commissioner Abell: Sometimes you have to (Inaudible. Microphone not on.)

Commissioner Kiefer: I think this Drainage Board, as County Commissioners, are for businesses to be successful because you provide jobs and you provide a tax base, and to me it's critically important to help you out. So, I want you to realize that Vanderburgh County welcomes your business and we want to help you solve your problem there. Thanks.

Rick Martin: Probably one other issue, and I don't think, it may not be appropriate for this Board, you know, because of the lack of permit, I think he's also trying to install some equipment and is being denied permits to even connect the electric on these, this new equipment. I don't know if there's anything that this Board can do about that.

Commissioner Abell: Who is denying it? Area Plan Commission?

Rick Martin: I believe Area Plan, yeah, because they haven't approved the drainage plan, they won't approve him to do anything out there. So, I believe we had an

electrician out there to hook up some new state of the art equipment last week that couldn't get hooked up because we didn't have the proper permits yet. Because this issue is holding that up.

Commissioner Kiefer: I wonder if we should have Blaine Oliver come to our meeting too.

Commissioner Abell: Yeah, it couldn't hurt.

President Melcher: Wait a minute.

Joe Harrison, Jr.: Is there anything else?

Commissioner Abell: He mentioned (Inaudible).

Commissioner Kiefer: Yeah, but at least he could answer questions or might know something.

Jeff Mueller: Can I make a comment? Mr. Stoll had an excellent idea. We could make approval of the plan subject to a drainage, so that maybe the Area Plan could approve the other issues, as far as the power and hook up. Then, you know, that way they could move ahead with that piece of it.

Mike Brady: That would be helpful.

Jeff Mueller: We could sign off on the plan with some kind of a tentative, pending approval of the drainage piece, but, you know, somehow write it so that they could do some of the other activities that they want to do.

Commissioner Abell: I'll make that in the form of a motion.

Linda Freeman: And say not construction.

Jeff Mueller: Yeah, but I would be happy to talk to Mr. Oliver about how we could word that where that could be done. That was John's idea, I want to give him credit for that one.

Commissioner Abell: The County Commissioners want to see this happen. I move that.

Commissioner Kiefer: Yeah. I'll second it.

President Melcher: I don't think we need any other further discussion, but do we?

Joe Harrison, Jr.: No.

Rick Martin: No.

President Melcher: Roll call vote.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: We want to help you, and we don't understand it, and we're fighting other things, we might as well fight this one too. So, I'll vote yes.

(Motion approved 3-0)

Joe Harrison, Jr.: But, again, just so you know, no new construction.

Rick Martin: Right.

Joe Harrison, Jr.: Do you understand? No building.

Rick Martin: No buildings, no paving, no—

Linda Freeman: Right.

Rick Martin: —you can hook up equipment and machines I think is what he's saying.

Mike Brady: That's a party.

Rick Martin: That will help.

Joe Harrison, Jr.: Well, that's good.

President Melcher: John, is that going to work? You've been on those boards longer than we have.

John Stoll: Yeah, like Jeff said, we can get with Blaine Oliver and just have a condition that anything associated with this paving of the parking lot, the retaining wall, the drainage is not approved, but everything else is approved.

President Melcher: So, you could get with him first thing in the morning?

John Stoll: Sure.

President Melcher: Somebody get back with us so we know what's happening. Just e-mail us.

Rick Martin: Alright, very good.

President Melcher: Thank you.

Commissioner Kiefer: Thanks.

Rick Martin: Thank you very much.

Joe Harrison, Jr.: Thanks.

President Melcher: Alright, public comment? Anybody else?

Mike Brady: (Inaudible. Not at microphone.)

Commissioner Abell: Oh, his camera.

Commissioner Kiefer: You need these plans?

President Melcher: You need the camera?

Mike Brady: I got the camera, I need the plans.

President Melcher: I was going to say, we didn't have the camera here. Thank you. Any other public business?

Reading of 2013 Drainage Maintenance Bids
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Joe Harrison, Jr.: I've got the bids.

President Melcher: Okay, we thought you had plenty of time.

Joe Harrison, Jr.: I'm going to go ahead and read the bids on the drainage.

President Melcher: Okay.

Joe Harrison, Jr.: Bid openings. What I'm going to do is indicate the name of the bidder and I'll tell you what ditch and then the amount. They'll end up taking these under advisement and coming back to you at the next meeting. First of all, Big Creek Drainage Association, they bid on Barr's Creek, that bid amount is \$4,261.53; Big Creek Drainage Association, again, Buente Upper Big Creek project, that bid amount is \$8,914. The next item, Big Creek Drainage Association again is the bidder, Maidlow, is that what it is? Maidlow Ditch, \$7,299.07. Again, Big Creek Drainage Association, Pond Flat Main, that bid amount is \$5,993.80. The last Big Creek Drainage Association bid is on Rexing Ditch, and that bid amount is \$6,478.52. The next group of bids is from Eldon Maasberg. I think he's in the audience. The first one is, is it Baehl Ditch? \$ 1,102.40. The next bid that he submitted is for Kneer Ditch, \$410.40. The next bid that he submitted is for Maasberg Ditch, and that's \$220.60. The last bid that he submitted, I believe, is Wallenmeyer Ditch, and that's \$1,253.25. So, those are all his. The next one is John Maurer. He submitted two bids. The first is on Baehl Ditch, that bid amount is \$861.25. The next bid by Mr. Maurer is for Hoeftling Ditch, and that is \$557.10. The next bidder is Rexing Enterprises, Inc, and they're bidding on Singer Ditch, that's the only one, and that bid amount is \$367.50. The next group of bids is from RR Rexing Farm, Inc. They bid on three different ditches, the first is on Pond Flat Lateral "A", bid amount, \$743.54. The next bid is on Pond Flat Lateral "B", and that's \$391.58. Their last bid is on Pond Flat Lateral "D", and that's \$641.06. The next group of bids is from Union Township Ditch Association. The first is Barnett Ditch, \$274.32. The second bid is on Cypress Dale Maddox, that bid is \$774.05. The next bid is Edmond Ditch, that's \$453.38. The next bid is on Helfrich Happe Ditch, and that is \$571.41. The last bid that they submitted is on Kamp, K-a-m-p, Ditch, and that's \$2,901.60. Then we've got the next group of bids is from Shideler Spray, Inc. So, they're bidding on this group of bids that I'm going to indicate; Aiken, that's Aiken Ditch, \$436. Do I need to say this? Does it really matter?

Linda Freeman: Well, this one is for dormant spraying.

Joe Harrison, Jr.: Okay, this is all dormant spraying. The next is Barnett Ditch, that's \$282.75. The next is Cypress Dale Maddox, that's \$802.32. The next is Eagle Slough, it's a little bigger amount, \$5,557.40. The next bid is on Eastside Urban South Half, \$2,908.50. The next is on Edmond Ditch, \$638.40. The next is on Henry Ditch, \$381.48. The next is on Keil Ditch, \$328.31. The last one is on Sonntag Stevens Ditch, and that's \$690.50. The next group is from Shideler Spray, Inc., and this is for foliar spraying or broadleaf and brush. So, it's on these ditches that they are submitting those bids. Aiken Ditch, \$1,030.74; Barnett Ditch, \$294.06. The next bid is Cypress Dale Maddox, that's \$802.32. The next is on Eagle Slough, \$4,956.60. The next is on Eastside Urban North Half, \$2,197.21; Eastside Urban South Half, \$3,024.84. The next one is on Edmond Ditch, \$638.40. The next is Harper Ditch, \$309.75. The next is Keil Ditch, \$307.22. The next is Kolb Ditch, \$447.50. The last one on that grouping is Sonntag Stevens Ditch, \$690.50. The next group of bids is again from Shideler Spray, Inc. and this is on sterilization of ditch bottoms. That's, the first grouping on that is Eastside Urban South Half, \$2,213.84. The next is on Harper Ditch, \$280.25. The next is on Kolb Ditch, \$443.03, and Sonntag Stevens, \$655.98. So, that's all of the bids by Shideler. The next group of bids is from Mark Naas Farms, and that's on Aiken mid-summer mowing, the bid amount is \$3,834. The next bid by Mark Naas Farms is Eastside Urban South Half, Crawford Brandeis and Bonnie View Extension late spring and fall mowing, that bid is \$855.50. Mark Naas Farms' bid on Eastside Urban South Half, Stockfleth mid-summer mowing is \$1,221.35¹. The next bid by Mark Naas Farms is for the Harper late spring and fall mowing, \$2,298.05.

Linda Freeman: Per mowing.

Joe Harrison, Jr.: Per mowing. The next bid is Mark Naas Farms on the Kolb, Section A fall mowing, and that's \$1,431.15. The next Mark Naas Farms, ditch is for Kolb, Section B mid-summer and fall mowing, \$1,315.38.

Linda Freeman: I did not find a bid for fall mowing on Sonntag Stevens.

Joe Harrison, Jr.: Yeah, apparently Mr. Naas, or Mark Naas Farms did not submit a bid on fall mowing for Sonntag Stevens, but on Mark Naas Farms, he did submit a bid on Sonntag Stevens late spring mowing, and that bid amount is \$2,368.52. Then we've got a group of bids by McCullough Land Improvements, LLC. This is the last bidder, so, I'll tell you what they bid on and the amount. The first is Aiken, mid-summer mowing, and that amount is \$3,702. The next bid that they submitted is on Eastside Urban South Half, Crawford Brandeis and Bonnie View Extension, late spring and fall mowing, this is per mowing, is that right?

Linda Freeman: Correct.

Joe Harrison, Jr.: \$809.10. The next bid by McCullough is for Eastside Urban South Half, Stockfleth mid-summer mowing, \$985.03. Five, I'm sorry, \$985.05. The next bid is McCullough's on Harper, late spring and fall, this is per mowing, right?

Linda Freeman: Right.

Joe Harrison, Jr.: \$2,203.65 per mowing. The next McCullough bid is on Kolb, Section A, fall mowing, and that bid is \$1,377.10. The next McCullough bid is on

¹Should be \$1,021.35.

Kolb, Section B, mid-summer and fall mowing, and this is per mowing, \$1,266.50. The second to last bid, McCullough Land Improvements, LLC on Sonntag Stevens, fall mowing, and that bid amount is \$8,007.34. The last bid by McCullough is on Sonntag Stevens, late spring mowing, the bid amount is \$2,331.56. So, I would ask that these bids be taken under advisement, and they'll review them and come back at the next meeting, I guess, on March 12th to give us their recommendations.

Linda Freeman: Correct.

Jeff Mueller: How are we on, are we close to what we estimated on the bids on some of the bigger things?

Linda Freeman: Yes, yes.

Jeff Mueller: Okay.

Linda Freeman: So, and then Kamp Ditch was the one that they are looking at doing a little extra work on apparently.

Jeff Mueller: Yeah, Kamp will actually exceed that dollar figure we told you about. So, we will bill Kamp and we wouldn't bill the other three down there on Group IV.

Linda Freeman: As far as ditch rates and billings.

President Melcher: There was one that they skipped it.

Linda Freeman: I did not see that Mark Naas had a bid for Sonntag Stevens fall mowing. I did go through it twice, but just, I, you know, yeah, this was quick, so if there is anything that's changed, we'll let you know.

President Melcher: Okay. So, we need a motion to take these under advisement.

Joe Harrison, Jr.: Right.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you. Is that it?

Jeff Mueller: That's it.

President Melcher: Anybody else? I need a motion to adjourn.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: We're adjourned. Thank you.

(The meeting was adjourned at 6:48 p.m.)

Those in Attendance:

Stephen Melcher

Jeff Mueller

John Stoll

Linda Freeman

Joe Kiefer

Joe Harrison, Jr.

Rick Martin

Others Unidentified

Marsha Abell

Madelyn Grayson

Mike Brady

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MARCH 12, 2013**

The Vanderburgh County Drainage Board met in session this 12th day of March, 2013 at 7:10 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and open up the Drainage Board. It's March the 12th, it's about ten after seven.

Pledge of Allegiance

President Melcher: If we could all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the February 26, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay.

2013 Drainage Maintenance Awarding of Bids

President Melcher: Next is the 2013 drainage maintenance award of bids.

Jeff Mueller: Yes, as you're aware, last week, or, I'm sorry, last meeting two weeks ago, we received a number of bids which are on your sheet. The total bids are for \$98,647.34, although we will be reimbursed on one of those by \$3,000 by the Upper, the drainage association up in Armstrong. So, what we're recommending is that the high bid, I'm sorry, the high bids, the low bids be accepted. We're also making a motion that, or requesting a motion at that time, that if you all would so entertain that after Linda sends the bids out and they come back that Madelyn be allowed to use your stamp to approve those.

Madelyn Grayson: Unless you want to sign them all.

Commissioner Abell: Oh, I don't want to sign them.

President Melcher: Okay, any questions? There was something last time, and I don't remember that was skipped. Was that one taken care of? There was one, remember that? There was one that didn't–

Commissioner Abell: We got an e-mail on later, you mean?

President Melcher: We might have.

Madelyn Grayson: It was, Mark Naas just didn't bid on the fall mowing, and I think somebody else did that you awarded it to.

President Melcher: Is that what it was?

Jeff Mueller: Must have been, yeah.

President Melcher: Okay, so, everything is complete now?

Jeff Mueller: Yes.

President Melcher: And everything is going to be covered now?

Jeff Mueller: Yes.

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you. Then, I guess we go ahead, do we want to go ahead and make the motion on that she can sign them once they get in.

Commissioner Abell: I'll move that she can use our stamp to sign all of those instead of us having to personally sign them.

Commissioner Kiefer: Second.

President Melcher: Okay, we have a first and second. We'll just call roll on that one.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Receiving of Drainage Obstruction Petition: Delwin Cato
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President Melcher: Next we have the drainage obstruction petition on Delwin Cato.

Jeff Mueller: Yes. Mr. Cato, under I.C. 36-9-27-4, you know, a person who owns a tract of land can seek the removal of an obstruction from a drain or natural surface watercourse located outside the person's tract in order to promote better drainage of the person's tract. If the owner of the land on which the obstruction is located, upon request, does not remove the obstruction, the person seeking the removal of that obstruction may file a petition asking the Drainage Board to remove, or authorize the removal of the obstruction. For purposes of the petition, it's defined as either a mutual drain or a natural surface watercourse. A natural surface watercourse is defined as an area of the surface of ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction in a channel. In this particular case, the petition addresses an obstruction of a natural surface watercourse. The petition was filed with the Vanderburgh County Auditor on February 27, 2013. The original copy is available, and, I believe a copy has been supplied to you. Along with the petition, the filing fee of \$100 was received. The petition is from Delwin Cato of 14810 Darmstadt Road, Evansville. The petitioner is petitioning the Drainage Board to order the removal of an obstruction alleged to exist in an unaddressed farm tract across Darmstadt Road, which a landowner updrainage from the petitioner. The petitioner names the neighbor and specifies the items and materials and/or conditions that exist that the petitioner alleges is an obstruction. I just kind of want to float away from my written a minute, this is a little bit different, normally when we're talking about an obstruction, you're talking, you know, a ditch or drain downstream from you, somebody's got it blocked and the water's coming up on you or you're not flowing well. This situation, the petitioner is complaining about drainage coming on to them. Okay? As previously stated, the code specifies that the petition is filed after the owner of land of the alleged obstruction is located does not remove the obstruction upon request. Therefore, the Vanderburgh County Surveyor's Office specifically states on the petition form, that the owner of the land on which the obstruction is located must be notified in writing. Notification was made by certified mail, and a copy of the notification, along with a proof of mailing, was enclosed with the petition. Should you accept the petition, that will then enable the County Surveyor, a member of the Drainage Board, or an authorized representative of the County Surveyor or Drainage Board to enter onto private property to conduct an investigation specifically as to the alleged obstruction at the location only. An oral and/or written notice will be given to the owner of the property where the alleged obstruction exists prior to entering upon the property. After the investigation, a written report will be made to the Drainage Board. Then the Drainage Board is obliged to hold a hearing, during which the petitioner, Delwin Cato, can present their information regarding the alleged obstruction, and the respondent, Gloria Strott, may reply. The Board may be obligated, I'm sorry, 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. The required Drainage Board hearing must be held at least 30 days, but less than 90 days after the date of the filing of the petition, which based on the filing date of February 27th would require that the hearing occur sometime between March 29,

2013 and May 28, 2013. So, that is kind of where we're at. Are there any questions about the petition?

President Melcher: I don't have any questions. So, do we need to set a date?

Jeff Mueller: Well, first, well, we would make a motion that you would accept the petition from Delwin Cato that was filed February 27, 2013, and at that time also if we could set a date.

President Melcher: We probably, let's just make a motion that we accept it.

Joe Harrison, Jr.: Right, right.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: Okay, roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: We accept the petition.

Jeff Mueller: Okay.

Joe Harrison, Jr.: I would recommend that, it's going to take you, you know, probably 30 days or so to review the matter, and maybe within the next 60 days maybe we can set it for a hearing. Something like that, I mean, we've got 90 days from the 27th of February.

Jeff Mueller: Yeah, we've got all the way till the 28th of May.

President Melcher: It don't matter to me. We can set it tonight, or at our next meeting.

Joe Harrison, Jr.: Yeah, why don't, do you want to do that? Do you want to take a look at it, and then at our next meeting we can maybe set it for a date either in April or whenever?

Commissioner Abell: That's okay with me.

President Melcher: Even though that's a long way away, we only have certain meetings. So, you know, that's going to come—

Joe Harrison, Jr.: The next meeting is April, I'm sorry March 26th.

Jeff Mueller: March 26th, which would be a little bit early.

Joe Harrison, Jr.: So, if you can take a look at your calendar, is that okay?

Jeff Mueller: Okay.

Joe Harrison, Jr.: Then we'll have to give notice to the parties thereafter.

President Melcher: Exactly.

Jeff Mueller: Okay.

President Melcher: Is there anybody in the audience tonight that would like to say something on this? Okay, you raised your hand, come on up. Just state your name and address.

Wallace Strott: Wallace Strott.

President Melcher: On the microphone. Everything has to be on record. We get it on tape and that way we've got minutes.

Joe Harrison, Jr.: One thing is, you can give your name and everything, but we don't want to....is the other party here? Okay, well, we're not going to have a hearing tonight, because the Surveyor hasn't had an opportunity to assess the situation, but if you want to give your name and just say a brief sentence or two, that's fine. That's about all you can do tonight.

Wallace Strott: Sure. My name is Wallace Strott. My family has owned the property since the early 80's, '81, my mom and dad bought that. I'm representing them.

Joe Harrison, Jr.: Where is the property?

Wallace Strott: Darmstadt Road.

Joe Harrison, Jr.: Is there an address?

Wallace Strott: No, it's where Darmstadt Road and Princeton Road make a Y there. It's right across from that. There's a cell tower on the property. When we bought the property, my parents bought the property back in '81, the early 80's. That was our entrance to get into the field. There's a culvert there. I have pictures here if you would like to see it. It's a 15 inch culvert. It's more than sufficient to handle any water coming down from the way the water drains, which is from the south side towards Darmstadt. There's only about 30 foot of road frontage where the water comes in there. We cooperated with the county a couple of years ago when Mr. Cato made a complaint. Mike Wathen came out and recommended that we have asphalt laid on top of the, to form a berm, on top of the driveway to help direct water, divert water to the ditch. I went out and cleaned the ditch at the face of the culvert and also down towards the Y of Old Princeton Road and Darmstadt Road. So, there's plenty of sufficient fall for the water to run off now. Like I said, it's a 15 foot culvert, it's a 15

inch culvert, I'm sorry, and that's more than sufficient to handle the water coming towards it.

President Melcher: Well, I don't want to stop you, but, basically, we don't need the pictures because you're going to come back for a hearing.

Wallace Strott: Okay. Alright.

President Melcher: So, that way we don't have to look at them until then, because we're going to have to get the answers back from our Surveyor—

Wallace Strott: Okay.

President Melcher: —and maybe our Engineer. So, they're going to be telling us what we can and can't do, along with the Attorney.

Wallace Strott: Okay. Alright.

President Melcher: Okay. Anything else?

Wallace Strott: No. Thank you.

Joe Harrison, Jr.: Well, they'll be getting with you to talk about the situation. Mr. Mueller, you'll get his contact information and all of that?

Jeff Mueller: I've got his mother's contact information.

Joe Harrison, Jr.: I just want to make sure you guys can connect.

Wallace Strott: Okay.

President Melcher: Okay. Mr. Cato, is it? Just state your name and address and that.

Delwin Cato: Delwin Cato, 14810 Darmstadt.

President Melcher: Okay.

Delwin Cato: Okay, we bought this house in 2010. In 2011 we had a lot of rain, we all remember maybe. Unaware that, he's exactly right, there is a road, it's right across from my mailbox, is access to his field. His field runs this way, the neighbor's runs this way. The water runs across that. In big rains it just gushes across. At one time, when we had all of that flooding and Rural King offered the sand bags, the neighbor on that side went and got some sand bags to divert the water. I went and helped him, and added a couple more. I mean, the water was coming across the road this deep. It comes over on me. I didn't know this when I bought the property. I didn't find out until afterwards. I spoke with Mike Wathen, he came out and talked with both of us. Mike made the statement himself, the best solution to this is, move it down the road. There's 150 yards or more of road frontage. When you go past, the road makes a little dip like this, it's impossible for water to come across and run down there. I told him I would like to have it moved. He's real good at what he does. I don't know what his actual title is, but he said, you know, okay, would you be alright if we tried this? I said, if anything, whatever works will be fine with me. The county did that, exactly like the man stated. They come and put an asphalt this wide, that

deep, cut at an angle. Okay, 2012, guess what we had a drought. No rain to speak of. Now, the little rains we've had this fall and early this spring, I've got pictures before and I've got pictures after, dirt and gravel filled up behind it, water comes over the top. It's not a permanent solution. I'm not asking to deny him anything to his property. I don't want to do that. I just want the property off of me. Water comes over and causes me some problems in my basement. My other neighbor told me before, the driveway comes out and goes up, does this. I said, man, why would a guy put a driveway where you come up and you almost bottom out? He said, the same reason he built a wall down through there for a hundred feet, this tall, water comes across that road and was getting in his house. He said, it stopped it when he put that wall on that side, the biggest part of it. Well, my neighbor will testify, water gushes down through there. There's a line of shrubs between us that's got concrete chunks this big where somebody's filled in. He said the prior neighbors did that. I don't know if he had any contact with this gentleman to try and work anything out or not, I don't know. I'm just stating the facts. I can get statements from my neighbors. I'm just asking to relieve me of all that water. If you get a big rain and it turns to ice, you've got a major problem there. Evidently nobody, the people that lived there before wouldn't go as far as I would to complain about it. Evidently. I'm not trying to hurt anybody here. I just want the water off of me where I don't have a problem with my water in my basement, my driveway washing out all the way down. The ditch comes out, I'm looking across the road, the ditch goes this way, it's cut off, there's a chute coming over on me, it goes down, it's a drainage ditch. It goes to a main drain, it goes to a big ditch that runs behind my house. I shouldn't have to put up with the water that should be in that ditch running to the ditch behind me through my house, my property. That's all I'm asking for, just get it off of me.

President Melcher: Okay, any questions? Okay, we're going to let them look into it. Then as long as everybody's talking then it will come back to us.

Delwin Cato: Okay, thank you all very much.

President Melcher: If you're okay, and then, you have the right, so, you know, if I have people, water coming on me I would probably do the same thing. We'll just have to see what works out.

Delwin Cato: Okay, thank you all very much.

Cherry Hill Drive Drainage Complaints Update

President Melcher: Okay, next is the Cherry Hill Drive drainage complaint update.

Jeff Mueller: I don't have anything on that. I didn't know if Mr. Kiefer would have anything on it.

Commissioner Kiefer: I did. I talked to Chris Ramsey, who is, you know, he owns, his company owns the real estate. He told me that he would be willing to cooperate with you. He didn't want to get sideways with the County Surveyor, so, nor the Commissioners. So, he said he would cooperate with you. Then, I think, he was going to call me back. I think he was going to talk to his people. He was going to call me back, but then I think he got sidetracked with some other things and he never reached back out to me. Now, if you want, I could probably give you his direct line number, but he did act like, he didn't see it as a big issue and he would work with you on getting it taken care of.

Jeff Mueller: If you want to give me the number afterwards, I would be happy to contact him.

Commissioner Kiefer: Okay. That sounds good.

Jeff Mueller: Okay, it sounds like we're going in the right direction.

Commissioner Kiefer: Yeah, I think he was willing to cooperate.

Jeff Mueller: Okay.

Invironmental Technologies/Red Cross Update

President Melcher: Okay, the next thing is the Invironmental Technologies/Red Cross update. What happened there?

Jeff Mueller: Actually, a very positive meeting. The highlight of the day.

President Melcher: I was waiting to see everybody.

Jeff Mueller: Yeah, Mr. Stoll I think will tell you the same thing. We met out on site. Mr. Brady, the owner of Invironmental Technologies and his attorney, Mr. Martin, as well as a Dominic Romaldy, I'm sure I butchered his name, Romaldy. He was with the Red Cross, he drove down from Cleveland today. A local contact of his, Kurt Reising of Bill's Plumbing. I think where we're at is that they're going to submit a drainage plan to us. It's going to be a pretty simple drainage plan where it's going to capture the drainage off the parking lot via a 12 inch pipe and take it around the side of the Red Cross property back to the back of IT's property. I think Mr. Brady was willing to give them what right-of-way's they needed for the pipe. I don't know who's paying for the pipe. As I told them, that's their business, but if they could come in with something pretty simple. Mr. Brady even said I'll give you my drawings and you can draw on them. So, it appeared that both sides were wanting to resolve it. I thank Mr. Harrison for sending his letter out to the parties. Both sides seemed to want to work on it. So, the way we left it was, you know, normally drainage plans are supposed to be in two weeks before the next meeting. This is going to be simple. I said get something to me before the end of next week, we can put it on the March 26th agenda, and go over it and hopefully put this to bed.

President Melcher: Okay.

Jeff Mueller: Like I said, we, John and I had a surprisingly great day out there today.

President Melcher: Sometimes you win one, huh?

Jeff Mueller: Sometimes.

Ditch Maintenance Claims

President Melcher: Next we have the ditch maintenance claims.

Jeff Mueller: There's none.

President Melcher: None?

Public Comment

President Melcher: Public comment? Bill, is that you? No? Alright. Anything else to come before us?

Commissioner Abell: Yes. I have something.

President Melcher: Okay.

Commissioner Abell: Mr. Stoll, would you please ask Mr. Wathen not to make any comments on behalf of the county that he's not supposed to be doing. That's the County Surveyor's job or the County Engineer's. That's not the first time I've heard that Mr. Wathen went out and made certain comments. He is not capable of binding this county to something. I would appreciate it if you would let him know that. Thank you.

Commissioner Kiefer: I'll move that we adjourn.

President Melcher: Is there a second?

Commissioner Abell: Aye.

President Melcher: Okay.

Commissioner Kiefer: Aye.

President Melcher: That was a second. Alright, now we don't have to pay that other \$100.

Commissioner Abell: Oh, okay.

(The meeting was adjourned at 7:28 p.m.)

Those in Attendance:

Stephen Melcher
Jeff Mueller
Wallace Strott
Members of Media

Joe Kiefer
Joe Harrison, Jr.
Delwin Cato

Marsha Abell
Madelyn Grayson
Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
MARCH 26, 2013**

The Vanderburgh County Drainage Board met in session this 26th day of March, 2013 at 6:35 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll call to order the Vanderburgh County Drainage Board. It's March 26, 2013, and it's 6:35.

Pledge of Allegiance

President Melcher: If everyone would rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the March 12, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Cherry Hill Drive Drainage Complaints Update

President Melcher: Cherry Hill Drive drainage complaints update.

Jeff Mueller: Yeah, I'll give you an update on that. I just wanted to say that John and I met with the engineer for the firm out there on Monday afternoon, about taking that pipe out and putting in a five foot bottom ditch. He's going to go back with the owners and kind of run it through with them and everything, but it seems like we're making some positive progress on the issue. Joe, again, thank you for, you know, greasing the skids so that we could get that going. Mr. Merritt from Cash Waggner has been very cooperative with working with us on it. So, I'm hoping that here soon we can tell you that the pipe's out and the ditch is going and we've resolved that problem. We're working towards it right now.

Commissioner Kiefer: Jeff, thanks for your diligence on that and sticking to itivenessness. I know it took a little extra work, but I appreciate it.

Jeff Mueller: I know there's a neighbor here. I don't know if he has any comments on it.

President Melcher: Okay, do you want to say anything?

Unidentified: As long as it's being taken care of.

President Melcher: Okay.

Jeff Mueller: Okay.

Invironmental Technologies/Red Cross Update
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President Melcher: So, if we're done with Cherry Hill, next is the Invironmental Technologies/Red Cross update.

Jeff Mueller: Okay, I gave you a packet up there. Mr. Brady is here with a letter from Mr. Martin, and we've got an easement agreement and an easement both there. I believe, Joe, I'm not exactly sure, and I'm going to let Mr. Brady update you. I don't think we've got anything signed yet. I guess, they need to know how we feel about moving forward on that and your opinion on it please.

Joe Harrison, Jr.: Well, it's my understanding that it looks fine. I communicated with Mr. Martin today. Just for your information, the parties reached an agreement where an easement is going to be granted. You're going to sign, I guess, the easement. I guess it hasn't been signed yet, correct?

Mike Brady: It has not, sir.

Joe Harrison, Jr.: But as far as, and, Madelyn is a notary if you want to sign it tonight. If you want to sign it tomorrow, that's fine.

Mike Brady: It was my understanding from conversation with Mr. Martin today, as late as today, and he's on vacation—

Joe Harrison, Jr.: Right.

Mike Brady: — and still working on this, was that the Red Cross attorney in Washington, D.C. had requested it be modified.

Joe Harrison, Jr.: Oh, okay.

Mike Brady: The actual easement be modified to include a 20 foot unlimited easement to the back of the property. I told Mr. Martin I have a problem with that personally. First off, for a 12 inch drainage pipe you don't need 20 feet. The topography of the property is not such that 20 feet is going to be, they're not going to be able to put a vehicle on the easement anyway, in any way, shape or form, because it's a hill. I mean, short of moving the hill, they're not going to be able to do it. So, I don't, I think it's just, this is standard stuff that the attorney in D.C. is wanting, and to be honest with you, this is similar to what I've seen from the Red Cross in their attempts to drag their feet on this thing for the last six months.

Joe Harrison, Jr.: Well, I, this is the first I've heard of that. So, obviously, when I caught wind of this this morning I didn't know anything about that. So, the only thing I can tell you is, I guess, you're going to have to come back in two weeks. If you

don't have it worked out this evening. I mean, the easement that's in front of me, that I've read, doesn't include the language that you're referring to.

Mike Brady: No, sir, and, to be quite honest with you, I mean, the Red Cross has drug their feet on the discussion and getting this all done. The attorney just got back with Rick Martin today.

Joe Harrison, Jr.: Okay, well, I don't think the Board should proceed ahead today. I mean, you're just going to have a problem, you know, resolving the matter with them, unless you guys get it worked out. So, it sounds like Mr. Martin needs to give the attorney out in Washington, D.C. a call and work it out and come back in two weeks.

Mike Brady: I have a problem with that, sir.

Joe Harrison, Jr.: Well, that's good. I don't, but, you know, I don't think this Board wants to have an agreement take place that's not everybody's agreement.

Mike Brady: We have submitted a drainage plan, which was what was asked of us. We have also submitted every piece of paper that was asked of us. The easement or the agreement between my company and the American Red Cross, that's between us. If we work it out, we work it out. If we don't, we don't. I've done everything I know how to, including offering them this easement for nothing, even though I've incurred extraordinary expenses in legal fees and personal time in trying to get this parking lot to where it actually drains. I'm asking to give me approval to let me start pouring my parking lot.

Commissioner Abell: And, why (Inaudible. Microphone not on.)?

Joe Harrison, Jr.: Well, they had an agreement apparently worked out, and today, at the last minute, the Red Cross has asked for some additional language to be included in the easement to grant them, what, a 20 foot additional?

Mike Brady: Yes, sir.

Joe Harrison, Jr.: What I would like to do, Mr. Martin apparently is out of town, you have been able to pull your permits up to this point, right?

Mike Brady: Just the electrical permit—

Joe Harrison, Jr.: Right.

Mike Brady: — for the building.

Joe Harrison, Jr.: I mean, I would like to put this matter to bed where the two parties are done.

Commissioner Kiefer: Can we approve it subject to the agreement being signed with the Red Cross?

Joe Harrison, Jr.: Well, there is no agreement with the Red Cross. It's simply going to be an easement that he's going to sign. They want some additional language in the easement. I think the drainage plan is okay, but what I'm afraid of is that they're

not going to follow through with what they've agreed to do. Jeff, do you have any thoughts on that? Or, are you comfortable that everything will work out?

Jeff Mueller: I mean, we're fine with the drainage plan. I guess, maybe where Mr. Kiefer was coming from is if Mr. Brady would come in a couple days from now with the paper signed, then he wouldn't have to wait for the two week period. Is that kind of what—

Commissioner Kiefer: Yeah, that's what I was thinking. Can we just approve it subject to—

Joe Harrison, Jr.: I don't have a problem with that.

President Melcher: Well, that's good, because that's what I was going to bring up.

Commissioner Abell: Why—

Joe Harrison, Jr.: But, the thing is, you're not going to be able to get anywhere unless you have a signed easement. So, I'm just hoping that—

Mike Brady: I'm sorry, the Surveyor just said there's no problem with the drainage plan, which was the condition that was put upon me.

Joe Harrison, Jr.: Yes, but you're going to need to get....the agreement you guys have, you're going to have to provide them with an easement. So, I'm concerned about the two parties. It was my understanding, at least at 8:00 this morning that you all had a deal. Right?

Mike Brady: And, in principle we do. It's in lawyer language—

Joe Harrison, Jr.: I understand about lawyers.

Mike Brady: — which I don't speak very fluently at all, but this quibbling over it being an eight foot easement versus a 20 foot easement—

Joe Harrison, Jr.: I understand.

Mike Brady: — versus, I mean, like I said, I've done everything I know how to do short of begging. Right now I'm in a situation where my business is not able to function and it's been this way for six months, sir.

Joe Harrison, Jr.: Well, if the Board wants to move ahead and condition it upon the execution of an easement and go ahead and approve the plan, the drainage plan, that's fine. If that's what they want to do.

Commissioner Abell: Why would be doing anything else? We're the Drainage Board. I mean, isn't that all we have to approve is the drainage plans?

Joe Harrison, Jr.: Right, but the overall drainage plan may not happen if there's still a dispute between the two parties. That's my concern.

Commissioner Abell: Well, I think that's another issue to come back. I mean, it might.

Joe Harrison, Jr.: It might, that's right.

Commissioner Abell: And, we're the Drainage Board, so I think we should approve the drainage plan.

Joe Harrison, Jr.: I agree, but what I'm, I would like for it to never come back.

Commissioner Melcher: Well, so would I, but I've dealt with the Red Cross, so, I kind of know a little bit about what's going on. So, that's what I'm trying to get at. So, I'm trying to find out, if we've got a drainage plant that we're supposed to okay or not okay, I think we can do that. The easement, that has nothing to do with the drainage plan, does it?

Joe Harrison, Jr.: Well, go ahead.

Jeff Mueller: I mean, I was just going to say only in getting it built, but I know what you're saying, the plan is one thing and the construction is the other side of it. So, if you want to go ahead and approve the plan—

Joe Harrison, Jr.: And, I'm sure Mr. Brady wants to see it done though.

Mike Brady: Yes, sir.

Joe Harrison, Jr.: That's right. So, I'm just, I would like to see it done for you.

President Melcher: Jeff, run through this real quick for me. A, B, C, I understand A, B, C stuff. So, we've got the drainage plan.

Jeff Mueller: Yes.

President Melcher: The next step is...if the Red Cross never wants to sign, never, let's say never, now what happens?

Joe Harrison, Jr.: Well, they don't have to sign anything. Mr. Brady's business is going to grant them an easement.

Jeff Mueller: I guess, that's the question I have for you, Joe. There's two documents there. One is an easement that just Mr. Brady has to sign.

Joe Harrison, Jr.: Right.

Jeff Mueller: But, there's also an easement agreement.

Joe Harrison, Jr.: Right, that they both have to sign.

Jeff Mueller: Okay, and that's separate from the easement, it becomes part of the easement as an exhibit to the easement agreement? Is that correct?

Joe Harrison, Jr.: Yes.

Jeff Mueller: Okay.

Joe Harrison, Jr.: But, you've got to have the easement first, and it's got to have the right language in it first.

Jeff Mueller: Okay.

Joe Harrison, Jr.: And, they're wanting additional language in the easement.

Jeff Mueller: Are they wanting it in the easement or the easement agreement, do you know?

Mike Brady: Again, that's lawyer speak.

Joe Harrison, Jr.: I presume they'll want it in the easement, but, you know, I don't know.

Jeff Mueller: Okay.

Joe Harrison, Jr.: Again, I don't have a problem as long as they can go ahead and approve the drainage plan subject to an easement.

President Melcher: Do we approve the easement? Or is that just something between them?

Joe Harrison, Jr.: Well, that's the only way the drainage plan is going to get initiated. I mean, that's the only way it's going to be followed through with. I mean, if there's not going to be an easement agreement, the plan's never going to take place.

Jeff Mueller: Steve, maybe I ought to finish answering your question.

President Melcher: Maybe so. Maybe I shouldn't have jumped in.

Jeff Mueller: Let's say that the drainage plan, we approve the drainage plan tonight, the Red Cross never gives an easement, but we go ahead and let Mr. Brady move ahead, and that's with his parking lot and retaining wall. At the construction of that retaining wall, that could cause an obstruction to Red Cross. Of course, the obstruction is caused by the fact that Mr. Brady went on ahead with his approved plan, and the reason there's an obstruction was because the pipe was never built because there was never an easement. So, I guess you could say, Mr. Brady, I mean, that's, so you approve his drainage plan, and then if the Red Cross would come with an objection—

President Melcher: Okay, now who does the Red Cross come back to? Will they come back to this Board?

Jeff Mueller: They would file an obstruction petition at that point.

President Melcher: Drainage obstruction? Then they would have to tell us why they wanted a 20 foot instead of an eight foot.

Jeff Mueller: Yes.

President Melcher: So, we'll control that end too.

Jeff Mueller: Agreed.

President Melcher: Now, I don't see why we don't sign it tonight. I mean, I know the Red Cross.

Joe Harrison, Jr.: I don't have a problem with that at all. I just wanted to give you my advice. It's up to the Board.

President Melcher: No, I understand, but I have dealt with people, you know, what happens if it's four months before they agree and the man's out of business? We're here to help.

Joe Harrison, Jr.: I thought we had a deal this morning.

President Melcher: He's a taxpayer and the Red Cross is a non-profit organization.

Commissioner Abell: But, in all fairness, Mr. Harrison, if you had been out of town all day you wouldn't know about this. I mean, they waited until the last day to call you.

Mike Brady: No, Mr. Harrison didn't even know about this until just now.

Joe Harrison, Jr.: No.

Commissioner Abell: They have never called you? Well, they're delinquent.

President Melcher: Okay, I need a motion.

Commissioner Abell: I move for a do pass.

Commissioner Kiefer: Second.

President Melcher: Roll call vote please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Absolutely yes.

(Motion approved 3-0)

Jeff Mueller: So, the drainage plan is approved.

Commissioner Abell: Yep.

President Melcher: Yes.

Jeff Mueller: Okay. I will be out of town tomorrow, but I have Joel Wiggins' e-mail address, I will e-mail him tonight that the drainage plan is approved. So, that's the Area Plan Commission.

Mike Brady: So, I can go get my permit from APC?

Jeff Mueller: Yes.

Mike Brady: This action will compel the Red Cross to come to the table and get this worked out, because they don't want it....I don't want to interfere with their ability to operate—

Joe Harrison, Jr.: Sure.

Mike Brady: —no more than I want them to interfere with my ability to operate.

Joe Harrison, Jr.: No, I understand. I'm just—

Mike Brady: When they see a cement truck, there's going to be activity. I promise.

President Melcher: No, no—

Jeff Mueller: I just wanted you to know, in case you look for me tomorrow, I am moving forward electronically to get that taken care of.

Mike Brady: I appreciate your time, sir.

Jeff Mueller: Okay.

Mike Brady: Thank you.

President Melcher: The only thing I'm asking you is to continue with your attorney.

Mike Brady: I will. I absolutely will, Mr. Melcher. I have no reason not to.

President Melcher: I'm just saying, do that, and we'll see what happens.

Mike Brady: Thank you.

Jeff Mueller: Mike, if for some reason APC doesn't have it, go in to see Linda, they have my cell phone and they can call me.

Mike Brady: Linda?

Jeff Mueller: Yeah, Linda in our office.

Mike Brady: Alright, thank you, sir.

Jeff Mueller: Alrighty.

Drainage Obstruction Petition: Delwin Cato

President Melcher: Okay, moving along. This is exciting. The drainage obstruction petition of Delwin Cato.

Jeff Mueller: Delwin Cato, okay. Nothing, John and I went out there and looked at it, you know, we have to set a date on that petition, I'm really not....to me he's actually petitioning us to create an obstruction. There, I'm not doubting that there isn't a problem out there, but I don't think the drainage obstruction petition is the right

way to try to solve it. So, we could either set a date for a hearing, or we could say let's give him his \$100 back and let's discuss ways of doing this. Because it's actually a sheet flow problem, coming across, going across a pipe and going into his yard. So, what you're saying is take the pipe out so the water falls in the ditch and therefore creates an obstruction.

President Melcher: So, you're going to talk to him about that?

Jeff Mueller: I would be more than happy to, but my feeling is, we, as the Board, and John and I have been out there and we've thrown some ideas around, we've met with Mr. Strott, there's some things that can be done, I don't know if it's going to solve everything, but I really don't think that this falls under the terms of a drainage obstruction. I just think it's a reverse, I think it's creating an obstruction, not taking away an obstruction.

President Melcher: Well, since you've worded it that way, then I won't say what I was going to say. Okay.

Jeff Mueller: Okay, so you want me to talk to him and say that's what we want to do?

President Melcher: The only thing I was going to say is that I wouldn't mind, to keep it moving if we voted for it, and then you had the option, gave you the option to withdraw it.

Jeff Mueller: I'm fine with that.

President Melcher: Do you see what I'm trying to say?

Jeff Mueller: I think somewhere we need to come through—

President Melcher: In other words, he's going to come back—

Jeff Mueller: — with a piece of paper one way or the other.

President Melcher: We can go ahead and set a date.

Madelyn Grayson: You're going to incur costs if you do that.

President Melcher: Well, then that's, never mind. You just work it out.

Jeff Mueller: Well, I mean, the cost is going to be my time.

Madelyn Grayson: Well, and we'll have to send certified mailings and publish a notice.

President Melcher: I forgot about that too.

Jeff Mueller: You're right. I'm sorry, Madelyn.

President Melcher: You just try to work it out and bring it back.

Jeff Mueller: Okay, alright.

Joe Harrison, Jr.: Then, if we have to, you know, ask that it be withdrawn and give him money back, go ahead and come to the Board and ask for that request.

Jeff Mueller: Okay.

Joe Harrison, Jr.: Then we'll go from there.

Jeff Mueller: I can request that. Okay.

Madelyn Grayson: So, you want to refund his money, is that what we're saying?

Joe Harrison, Jr.: No, I don't think he's asking that yet.

President Melcher: We're not asking that yet.

Commissioner Abell: We want to hold on to it for right now.

Joe Harrison, Jr.: That may be the next step.

Jeff Mueller: Yeah, I want to explain to him it's not a drainage obstruction.

Joe Harrison, Jr.: Right.

Jeff Mueller: That, you know, the county, we've got some ideas, and, who's going to pay for it, that's another situation, but, plus John and I have to look and see what's on the right-of-way and what isn't on the right-of-way and a whole bunch of things there. We need to do a little more investigation. It's not, it's a request to create an obstruction, not to eliminate one. Okay?

Other Business

President Melcher: Okay, other business?

Jeff Mueller: That's—

Commissioner Abell: I have something.

Jeff Mueller: – okay, I was going to say.

Commissioner Abell: Willow Creek. I got another e-mail from a gentleman at Willow Creek. Are you talking to Mr. Michael Thissen? You are, I got an e-mail from him that I guess the hole, I don't know, it must be getting bigger by the day. It's going to swallow the whole house soon.

John Stoll: The holes were checked by Tom Goodman and Dave Castrale in my office. This was a couple of weeks ago. They determined that the lift holes that were used to set the difference sections of the manhole weren't grouted in very well. So, they were losing backfill around the manhole through the lift holes, as well the different pre-cast sections as they were stacked, the joints between the different sections weren't grouted very well. So, they told the residents out there that they needed to look into getting those sealed up better. It may not be as expensive as a repair as what everybody initially thought as far if there was a pipe separation or anything like that. I know that the residents have been in contact with contractors,

because I heard from one contractor who was providing prices. One would be to dig it up entirely and reset it, and one would be to try and grout it and put mastic and reseal it. I haven't talked to anybody in a couple of weeks about that, but we did have a couple of inspectors out there, and from what they saw, it didn't appear that the problem, the problem might not be as bad as what we initially thought if it would have been pipe separations. That being said, I have not been out there to see the sinkholes, and I know Mr. Thissen's e-mail made reference to a hole next to the curb inlet. I know our guys had contacted the Highway Department, but that was one of the last things that I asked Tom to check into as I was walking out the door to meet with you at 4:00. So, I'm not sure what he found out in regard to what the status of the repairs within the right-of-way are, but I can find that out and let you know.

Commissioner Abell: Is that the e-mail he sent you today that you responded to?

John Stoll: It showed up some time in the middle of the afternoon.

Commissioner Abell: He sent an e-mail today, March 26th to you at 1:00 regarding, he wanted you to give him the name, a contact name for the street department.

John Stoll: That was in regard to the sinkhole in the right-of-way. That's where the guys in my office—

Commissioner Abell: Okay.

John Stoll: – had been in touch with the Highway Department. I didn't have an answer for it, so I haven't replied to him. I'll get the answers and let you and Mr. Thissen both know.

Commissioner Abell: Okay. Since I got the e-mail, I thought I needed to bring it up.

President Melcher: Is that good enough?

Commissioner Abell: Yeah.

President Melcher: Any other business?

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims? We don't have any.

Jeff Mueller: Right.

Public Comment

President Melcher: Public comment? I guess we don't have any. I'll take a motion to adjourn.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We are adjourned.

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

Those in Attendance:

Stephen Melcher

Jeff Mueller

Mike Brady

Members of Media

Joe Kiefer

Joe Harrison, Jr.

John Stoll

Marsha Abell

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
APRIL 9, 2013**

The Vanderburgh County Drainage Board met in session this 9th day of April, 2013 at 6:08 p.m. in room 301 of the Civic Center Complex with Vice President Joe Kiefer presiding.

Call to Order

Commissioner Kiefer: I would like to call to order the Vanderburgh County Drainage Board for April 9, 2013.

Pledge of Allegiance

Commissioner Kiefer: Jeff, if you don't mind, can you lead us in the Pledge?

Jeff Mueller: Sure.

(The Pledge of Allegiance was given.)

Approval of the March 26, 2013 Drainage Board Meeting Minutes

Commissioner Kiefer: Thank you. Is there a motion to approve the previous minutes?

Commissioner Abell: So moved.

Commissioner Kiefer: I'll second that. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye.

(Motion approved 2-0)

Rescheduling of May 21st Meeting to May 14th

Commissioner Kiefer: Change of meeting date from May 21st to May 14th to coincide with Commissioners change. I suppose we'll have to advertise that as well? Is there a motion to do that?

Commissioner Abell: I'll move to change the Drainage Board meeting from May 21st to May 14th.

Commissioner Kiefer: Great. I'll second that. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye.

(Motion approved 2-0)

Drainage Obstruction Petition Update: Delwin Cato

Commissioner Kiefer: Okay, we're moving right along, drainage obstruction petition, Delwin Cato. Boy, this is one that keeps coming back, doesn't it?

Jeff Mueller: Yeah, well, if you'll remember, we talked about the fact that, you know, really we didn't feel that it was a drainage obstruction. I talked to him and he's agreed to pull the obstruction petition. With that, what I would do is I'm requesting if we could refund his \$100. We still have a drainage problem that we need to look at out there, but it's not an obstruction problem. There's about three or four different things that can be done. The problem is going to be, you know, who's dime is it going to be, but I think first of all we just need to talk to the parties and, you know, tell them, well, here's some options and go from there. Like I said, it really doesn't fall underneath the obstruction petition. So, I would like to ask the Board if we could refund his \$100 filing fee.

Commissioner Kiefer: Okay. So, do you want to make the motion?

Commissioner Abell: I'll move that we refund his money.

Commissioner Kiefer: I'll second that. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye.

(Motion approved 2-0)

Commissioner Kiefer: Okay.

Commissioner Abell: Are you going to continue to work with him?

Jeff Mueller: Yes.

Joe Harrison, Jr.: That was the good thing. At least by filing it, he got everybody to, you know, everybody's got their attention, and we're looking at it.

Jeff Mueller: Yes.

Commissioner Kiefer: Sure.

**Harper Ditch-Culvert Cleaning Under Norfolk Southern RR
@ Stockwell Road**

Commissioner Kiefer: Under other business, Cherry Hill Drive drainage complaints.

Jeff Mueller: Wait a minute, before we do that, can we go to Harper Ditch?

Commissioner Abell: Yeah, I'm looking at it.

Commissioner Kiefer: Oh, I'm sorry, Harper Ditch. I'm sorry, I skipped that.

Jeff Mueller: What I'm going to show you, yeah, I mean, I was trying to put it in a slide format, and I can't figure....I'll put this in a slide format for you to look at. Okay, there we go. What I wanted to point out to you all, I just kind of want to make something aware to you. The Harper Ditch/Wabash Eerie Canal, I don't know, about six or seven years ago, what we're doing is if we're looking at, if you can kind of see a little circle right here. I'm going to go to the next area and it's blown up a little bit. Originally the ditch went through here, there was a pipe underneath the road and a pipe underneath the railroad. Some of the flood studies that were done it was determined that this was a problem. So, the county actually constructed an additional ditch with two pipes under here and another pipe underneath the road. So, we essentially widened the ditch, although we did it in two separate locations. Okay? So, you know where we are, this is at Stockwell Road and just north of Vogel Road. Okay, right over here is Wesselman Park, the woods that you see. Stockwell Woods, okay? So, if you look down, this is the ditch, and it looks very similar to like if you were at Green River Road looking down Morgan Avenue, it's that straight ditch that's along the railroad tracks. To the left hand side is the railroad tracks, to the right is an entrance to the Rudolph plant. Right here you'll see an abutment wall. I just want to point that out to you, because I'm going to cross over, the abutment wall that you saw is right over here, here's the other side, here's the two pipes that were put in underneath the railroad and the ditch that was constructed. Okay? Then, from there it goes underneath Stockwell Road, underneath this box culvert. The reason I'm showing you this is because, it doesn't show up in these pictures very good, but it will show up in the next one. This pipe right here, we've got some siltation problems. If you'll notice, this is a 96 inch diameter pipe, so that would be four feet, so, roughly about two feet of siltation in the one pipe. Now, the other pipe is fine. I don't see this as, you know, this isn't an emergency type situation, but, I gave the agreement to Joe because when this was put in it was done with the railroad, and I know the railroad agreements move so fast. You know, I needed Joe to first of all tell us who's responsible for that, and if it was our responsibility, of course, it would come out of our ditch fund, you know, for the Wabash Eerie, East Side Urban Ditch Fund. I guess, what I want to do is just make the Board aware of the situation, and, you know, so that we could start talking about it, talk to the railroad about how do we get that pipe cleaned out.

Commissioner Abell: (Inaudible. Microphone not on.)

Jeff Mueller: No, I went out and looked at it. It's my old coal mine days, Marsha. I like to walk ditches. I was actually looking at something else in the area that caught my eye, and I happened to see that. I was looking at a retaining wall that I saw when I was driving by there before.

Commissioner Kiefer: Well, it's a heck of a lot better to catch this before it becomes a problem for businesses and neighbors and everybody else. So, I'm glad you caught it.

Jeff Mueller: Right, and I would rather, you know, let's address it now. It may take a year to get it resolved or whatever, but it's not anything that, you know, but I would rather do it now than have six feet of dirt in that thing two or three years from now and then we have a problem. So, and as I already said, with our ditches in this county, if you kind of think about it, we have three areas; we have the northwest portion, we've got the big ditch group, we've got Union Township, those guys look at those ditches real good, but on the east side, that's where we need to really keep an eye on the ditches, you know, the ones that we maintain, because we don't have

that group of farmers looking after those ditches. So, I want to try to keep a close eye on these things.

Commissioner Kiefer: Well, where do you think the erosion is coming from? I mean, where is this dirt coming from?

Jeff Mueller: I think it came off the side of the railroad bank, because when I looked there was some netting there, and it's come out from that netting. What I think is happening, which is kind of a good thing is, if you think about siltation, where the silt actually will deposit itself is where the velocity is the slowest; ie: where the channel is the widest, and theoretically it's the widest there because we have the one pipe that I showed you already in place, plus these two others. So, we actually have the widest part of the channel there, and that's why it's depositing itself there probably. So, that's why I say, I'm not too worried about it, but I don't want this thing to be dragging on, and then just all of a sudden we have a big problem, and then, you know, we're out there spending gazillions of dollars and trying to do it at the last minute. So, that's why I thought I would bring it up to you, let you know about it. If you don't mind, if Mr. Harrison can look into the agreement, it's just one of those things that we can kind of work on as we go.

Commissioner Kiefer: We don't need any motion for anything?

Commissioner Abell: (Inaudible. Microphone not on.)

Jeff Mueller: You know, I don't know if you would try to pressure it out, or if you would just have to go in there with like a Bobcat and try to carry it out to where it could be lifted out with some kind of a clamshell, or something like that. Of course, you know, because it's underneath the railroad they're going to be very particular about how it's done. So, we want to be particular about how it's done, because we certainly don't want to be, you know, having that liability hit us.

Commissioner Kiefer: Right.

Jeff Mueller: So, anyway, that's all I've got on that piece, to show you that.

Commissioner Kiefer: Okay, thank you.

Cherry Hill Drive Drainage Complaint Update

Jeff Mueller: Cherry Hill, I've got a letter for you. As you can see, they have committed to removing that pipe and giving us a five foot ditch there. Okay? Joe, thanks for your help on that.

Commissioner Kiefer: Glad to do it, and glad that we got a successful resolution to it. Thanks for staying on top of that.

Jeff Mueller: When we get it out, that's when I'll do the dance. When the pipe is out. So, anyway, we're moving along on that.

Commissioner Kiefer: I'll make a motion, or, I guess—

Commissioner Abell: I'll move that we accept the letter.

Commissioner Kiefer: Okay, and I'll second that.

Jeff Mueller: Okay.

Commissioner Kiefer: All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye.

(Motion approved 2-0)

Complaint on the Outlet at Pine Lake: Jewel Property

Jeff Mueller: The only other thing I wanted to bring up is, and I see Mr. Jeffers is here, and I know he was intimately involved with this, is we've got a complaint on the outlet of Pine Lake. That was where I don't think the neighbors, there was some issues with everybody not getting along out there. There was an issue with the spillway being clogged. The lake was part of the subdivision at one time, now it's privately owned by one of the lot owners. Mr. Jeffers was successful in getting that spillway cleared out.

Commissioner Abell: Is this just north of Morgan Avenue?

Jeff Mueller: Yeah, north of Morgan, and east of Boeke.

Commissioner Abell: Yeah, I went out there. I've been out there.

Jeff Mueller: Yeah, and, you know, I'm just making you aware that somebody has complained about it again. They say they're not maintaining the spillway. I've tried to call Mr. Jewel a couple of times to tell him that, you know, there's been a complaint filed, not a formal complaint, just a verbal complaint. I haven't been able to get a hold of him, but, I don't know, maybe they work during the day or something, but just wanted to let you know because this had been a drainage obstruction, and I know it did take up a fair amount of time of the Board before. You know, it's something that may or may not come about. So, just kind of a heads up on it is all I wanted to make on that statement.

Ditch Maintenance Claims

Commissioner Kiefer: Ditch maintenance claims?

Jeff Mueller: Don't have any.

Public Comment

Commissioner Kiefer: Public comment? Wow, this is great. I can't remember having a Drainage Board meeting going this fast. I'll ask for a motion to adjourn.

Commissioner Abell: So moved.

Commissioner Kiefer: Second. We are adjourned.

(The meeting was adjourned at 6:18 p.m.)

Those in Attendance:

Joe Kiefer

Marsha Abell

Jeff Mueller

Joe Harrison, Jr.

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
APRIL 23, 2013**

The Vanderburgh County Drainage Board met in session this 23rd day of April, 2013 at 6:06 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

Commissioner Abell: We will start the Drainage Board immediately. Hello, Mr. Mueller.

Jeff Mueller: Good evening.

President Melcher: Have you got an agenda?

Pledge of Allegiance

President Melcher: If we could all rise for the Pledge of Allegiance. Joe, would you like to lead us?

Commissioner Kiefer: Yes.

(The Pledge of Allegiance was given.)

Commissioner Kiefer: Were you referring to me, or our legal counsel?

President Melcher: Whichever Joe answered.

Approval of the April 9, 2013 Drainage Board Meeting Minutes

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

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Enclave at Eagle Cliff: Addendum to Preliminary Drainage Plan

President Melcher: Next, a request for approval of an addendum to the preliminary drainage plan for Enclave at Eagle Cliff. Do you want to explain that?

Jeff Mueller: Sure. As you might remember, the preliminary drainage plan was originally submitted to you on January 22, 2013 and approved. At that time it was supposed to be entirely a residential area with 65 homes. If you recall there was a change in the land use for part of that to go for commercial. So, what we have now is a commercial area, just under four acres, we have 56 homes lots, instead of 65.

The lots are a little bit different size, the street alignment is different. So, what he requested is that we come in with an addendum to the preliminary drainage plan to match what's now being proposed out there. I've reviewed it and there's the little two page checklist that I gave you before. All I'm doing is asking that we approve this addendum. It kind of just cleans up and matches what's being proposed out there now.

President Melcher: That's on Felstead?

Jeff Mueller: Yes, sir.

President Melcher: Any questions? Okay, we need a motion.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: It passes.

Daylight Industrial Park: Lots 1 & 2: Amended Drainage Plan
--

President Melcher: Next we'll have drainage plan revisions, plan approval for lots one and two, Daylight Industrial Park.

Jeff Mueller: Okay, on this project, and I gave you a little, short piece of paper there. Daylight Industrial Park was originally, the drainage plan was originally approved on June 26, 2000, and was revised on October 27, 2003. In that drainage plan there was to be two basins. There were to be 12 lots. One of the basins, the smaller basin was to be on lot one and two and handle the drainage off of lots one and two. There hasn't been any proposed development on one and two until recently. What they are now proposing is to put a storage facility there, and they would like to eliminate that basin. So, what they want to do is just put all of the drainage up to the one larger basin. The larger basin was built larger than originally planned. I had them re-run the numbers, it does work. The only thing that needs to be done is a 12 inch pipe, that's the outlet, needs to be changed to a 15 inch outlet. So, what I'm asking you to approve is to eliminate the one basin on lots one and two, and to also their site plan for their drainage, to approve those two things. The only thing I want to caveat is, is that the 15 inch pipe would have to be, it's not determined whether the lot owners, or the owner is going to be putting that 15 inch pipe in before we would, before Area Plan would grant the, I'm trying to think of the proper term. Once the facility is finished, before they would show that the 15 inch pipe was installed. So, that's what I'm asking for is the approval of that plan so we can move ahead and give those folks approval to move ahead.

President Melcher: Is there any questions? Joe, do you have any?

Commissioner Kiefer: No, I was just going to make a motion to approve.

Commissioner Abell: Second.

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

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Evansville Welding: Enterprise Park Subdivision
--

President Melcher: Other business?

Jeff Mueller: Two things, one is not listed on your agenda, because it just came in. There is a proposal at Evansville Welding, which is located in the Enterprise Park Subdivision. That park is located on the east side of I-164 and just kind of south of Morgan Avenue. It abuts up against Kelly Ditch. I'm not exactly sure when it was done, but there is a pipe off that property that's coming into Kelly Ditch, and the state regulations actually require, any time there's a connection to a mutual drain either through a ditch or through a pipe, that they have the County Surveyor come through and determine if the regulated drain is adequate to handle the additional flow of water. If any, if the result from the connection and no harmful pollution is likely to result from the connection, he shall grant the request. They have come through with a request. I've looked through it, I don't have any problem with it. I don't know if this is something that the Board needs to actually approve or not, but I thought I would bring it forth and it's in the minutes that way to approve them, allowing them to put that....actually the pipe's already there, but I'm going to allow them to have that pipe there. I am requesting that they put a little rip rap underneath the pipe.

Joe Harrison, Jr.: I don't think it really needs to be approved by the Board. Jeff and I spoke about this, and I think it's now, it's a regulated drain and it's outside the area where they are. Is that correct?

Jeff Mueller: It's outside, yeah, they're not in the drain area itself, yes.

Joe Harrison, Jr.: Right. Okay. If it was the other way around, it would be a little different.

Jeff Mueller: Yes.

Joe Harrison, Jr.: But, I don't think the Board, I think the statute allows you to make that determination.

Jeff Mueller: This way it's in the minutes though.

President Melcher: That's fine, but according to our attorney we wouldn't be voting on it.

Jeff Mueller: Okay.

Update on Huang-Huston Drainage Obstruction Petition

Jeff Mueller: The last thing. We had a visit by, this is in regards to the Huang-Huston obstruction petition that came back from 2011 and 2012. Dr. Huang came in, just stopped in and said hello to us on April 16th, and wanted to know the status of the project. What I did was two things, and you have them in your information that I gave you. Number one, I sent an e-mail to Dr. Huang saying, you know, here's kind of an understanding of where we were with the process. Then, number two, as part of that process, in looking through that, Candace Huston, once she did the plan, she was supposed to come back and ask for an encroachment agreement, because the work that she was going to be doing in there required an encroachment agreement. We found that she hasn't done that yet. So, I sent her a letter, which you have a copy of, reminding her that she needs to do that encroachment agreement, number one, and number two, just to request from her to ask where she's at on the actual physical work that was supposed to be done as a result of the drainage obstruction petition that had been filed and you all had ruled on. So, I just wanted to show you those two correspondences and let you know that I've corresponded with both of these and we're trying to keep this project, you know, beyond the paper phase and actually get going on doing the physical work that was required from that. So, that's in your packet.

President Melcher: So, this is just for information tonight?

Jeff Mueller: Yes, sir.

President Melcher: This is an on-going project.

Commissioner Abell: It is.

Jeff Mueller: Yes, sir.

Commissioner Abell: Was there a certain time that she had to get this done?

Jeff Mueller: I did not see anything in the minutes, per se. Of course, you know, I wouldn't have expected, I think the thing was actually, the plan was approved in the December 18, 2012 meeting. So, you know, we're just now getting into a, you know, construction season. So, I think it's time to kind of push her along a little bit and say, hey, it's going to be dry here pretty soon, where are you at on this?

Joe Harrison, Jr.: I did meet with her engineer, I think, last time.

Jeff Mueller: Yes.

President Melcher: Yeah, I was trying to think, was that Easley?

Joe Harrison, Jr.: Shofstall, yeah.

Jeff Mueller: Yeah, Shofstall with Easley.

President Melcher: Yeah.

Jeff Mueller: Yes. So, I just want to make sure we don't, I know the Huang's are wanting to get it done, and, you know, we want to be making sure that it's continuing to move.

President Melcher: We know the Huang's want it done.

Jeff Mueller: Yes.

President Melcher: If there's one thing we know, it's that one.

Jeff Mueller: Yes.

President Melcher: Alright.

Ditch Maintenance Claims

President Melcher: I guess, next is ditch claims. Do you have any?

Jeff Mueller: I have one claim. It's for, the total claim is for \$2,500, we would be paying 85 cents, or 85 percent, which is \$2,125, and that's to Big Creek on some work for Maidlow.

President Melcher: I need a motion to approve this claim.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

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

All Commissioners: Aye.

(Motion approved 3-0)

Public Comment

President Melcher: Public comment? Seeing none. Do you have anything else?

Jeff Mueller: No, sir.

President Melcher: Do the Board members have anything?

Commissioner Kiefer: None.

President Melcher: I'll entertain a motion.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: So we have a motion to approve. All in favor to close the meeting say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're closed. Thank you.

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

Those in Attendance:

Stephen Melcher

Jeff Mueller

Others Unidentified

Joe Kiefer

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MAY 7, 2013**

The Vanderburgh County Drainage Board met in session this 7th day of May, 2013 at 7:20 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We need to go ahead and get started on the Drainage Board. It's May 7, 2013, it's about twenty after seven. Okay, we'll go ahead and start. I think we're all here.

Pledge of Allegiance

President Melcher: Joe, do you want to lead us in the Pledge?

Commissioner Kiefer: Yes.

(The Pledge of Allegiance was given.)

President Melcher: Thank you.

Approval of the April 23, 2013 Drainage Board Meeting Minutes

President Melcher: I need a motion for approval of the minutes.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

**Request for Approval of the Construction of Bridge on
Old Boonville Highway over Crawford Brandeis Ditch**

President Melcher: Request for approval for the construction of a bridge on Old Boonville Highway over Crawford Brandeis Ditch.

Jeff Mueller: On this particular issue, you as the Commissioners are deciding, are going to go ahead and build a bridge on Old Boonville Highway across this ditch. What I'm asking for is the Drainage Board to give permission for that to move forward, since it is going over a regulated drain. You know, the plans seem to be in order. They have a construction in a floodway permit. Mr. Stoll is here if you've got any questions, but I think it's just a matter of us putting on record from the Drainage Board approval to construct this bridge over Crawford Brandeis Ditch.

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

Commissioner Abell: Second.

President Melcher: Any discussion? Seeing none. Just call the roll on this one.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Commissioner Kiefer: I do have a question though, even though we've voted on it. What's the timeline on that?

Jeff Mueller: I'll have to refer to Mr. Stoll.

John Stoll: I didn't bring the contract with me. I don't remember the exact timetables, but it was by the end of the year.

Commissioner Kiefer: Sometime this year, then?

John Stoll: Yeah.

President Melcher: A wooden bridge?

John Stoll: Pardon?

President Melcher: A wooden bridge?

John Stoll: Precast concrete.

President Melcher: Precast concrete?

Commissioner Abell: Awwh.

President Melcher: Low maintenance, huh?

Preliminary Drainage Plan Approval: Ridgefield

President Melcher: Okay, next, we have a request for approval of the preliminary drainage plan for Ridgefield.

Jeff Mueller: Yes, I've given you two things in your packet. One is a letter from Sitecon, the engineering firm for this, and the second is the preliminary drainage

plan checklist that I've given you before. This is a small subdivision. It's only three lots. We've went through the preliminary drainage plan checklist and it meets the requirements. There is one thing in here, in the letter, in this letter, under section, I'm sorry, under section 13.04.025 we're asking for a variance, and the variance that the developer is asking for is retention. Like I said, this is a very small subdivision. The C values, the difference in the C values between the undeveloped and the development, which drives whether you need retention are essentially the same, because most of this area won't be developed. It's a seven and a half acre subdivision with only three lots. What will be developed is a small amount of area, and the remaining area is cultivated, and that will be going to lawn. So, you essentially really won't be, by engineering standards, creating a whole lot more runoff. So, what we're saying is it's such a small disturbance he's requesting and I recommend that we do not require him to have retention on this.

President Melcher: Any questions? Any discussion? So, I guess, we need a motion on that?

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Okay, do you want to call the roll.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Burkett-Moore Drainage Obstruction Petition
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President Melcher: Next is the Burkett-Moore drainage obstruction petition.

Jeff Mueller: Under I.C. 36-9-27-4, a person which is defined in the code means an individual, corporation, or a limited liability corporation, a partnership, or any other legal entity. If that person who owns a tract of land seeks the removal of an obstruction from a drain or natural surface watercourse located outside the person's tract in order to promote better drainage of the person's tract, and the owner of the land on which the obstruction is located, upon request, does not remove the obstruction, the person seeking removal of the obstruction may file a petition asking the Drainage Board to remove, or authorize to order the removal of the obstruction. For purposes of the petition process, a drain is defined as a mutual drain which is located on two or more tracts of land that are under different ownership as established by the mutual consent of all owners and was not established or made subject to any drainage statute. A natural surface watercourse is defined as an area

of surface on the ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction and channel. The County Surveyor believes that the petition addresses an obstruction of a drain or natural surface watercourse. The petition was filed with the Vanderburgh County Auditor on April 16, 2013. The original copy is available, and a copy has been supplied to you for your review, along with the petition filing fee of \$100 was received. The petition is from Greg and Terri Burkett of 6920 Staubs Lane, Evansville, Indiana. The petitioner is petitioning the Drainage Board to order the removal of an obstruction that is alleged to exist at 6810 Staubs Lane, which is an adjoining landowner and neighbor. The petitioner names the adjoining neighbor and specifies the items and materials and/or conditions that exist that the petitioner alleges is an obstruction. As previously stated, the code specifies that the petition is filed after the owner of the land of the alleged obstruction is located does not remove the obstruction upon request. Therefore, the Vanderburgh County Surveyor's Office specifically states on the petition form that the owner of the land on which the obstruction is located must be notified in writing. The USPS receipt of a certified mailing was enclosed with the petition. Everything appears to be in order to me, and the County Surveyor recommends that the Drainage Board accept this petition from Greg and Terri Burkett. Should you accept the petition, that will then enable the County Surveyor, a member of the Drainage Board, or an authorized representative of the County Surveyor or Drainage Board to enter into private property to conduct investigations specifically as to the alleged obstruction at the location only. An oral and/or written notice will be given the owner of the property where the alleged obstruction exists prior to the entry upon the property. After the investigation a written report will be made to the Drainage Board, then the Drainage Board is obligated to hold a hearing, during which the petitioner, Greg and Terri Burkett, can present their information regarding the alleged obstruction, and the respondent, Gerald Moore, may reply. The Board will be obligated to come to a finding and make a determination as 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. The required Drainage Board hearing must be held at least 30 days, but less than 90 days after the date of filing the petition, which based on the date of the filing date of April 16, 2013 would require that the hearing occur between May 15, 2013 and July 15, 2013. Currently during that time period the Drainage Board is scheduled to meet on Tuesday, June 4th, June 18th and July 9th. At this time I would request a motion of the Drainage Board to accept the petition from Greg and Terri Burkett that was filed with the Vanderburgh County Auditor on April 16, 2013.

President Melcher: Alright, any discussion? I'll request a motion then.

Commissioner Kiefer: I'll make a motion to accept.

Commissioner Abell: I'll second, but just one minute.

Kurt Eckert: I'm here on behalf of this matter.

Commissioner Abell: I'm sorry?

Kurt Eckert: I'm here on behalf of the respondent.

President Melcher: Okay.

Commissioner Abell: That's fine, I want to ask the Surveyor a question.

Jeff Mueller: Yes.

Commissioner Abell: I was reading through this petition, and I'm not sure I really understand what has happened. Do you want to, in very simple terms tell me what has happened.

Jeff Mueller: My understanding is that they have changed the pipe size and built the driveway up.

Commissioner Abell: Made it a smaller pipe, built the driveway up, and that's caused—

Jeff Mueller: Drainage to back up on this neighbor's property.

Commissioner Abell: Okay, that's what I didn't understand.

Jeff Mueller: That's my understanding.

Commissioner Abell: Okay. Wait a minute.

President Melcher: We've got a motion going now.

Joe Harrison, Jr.: Go ahead and vote.

President Melcher: That's what I was going to do. Do you want to go ahead and call the roll?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: Okay.

Kurt Eckert: My name is Kurt Eckert. I'm here on behalf of the respondent, Gerald Moore. He has the address of 6810 Staubs Lane. It's his position that he doesn't even own the property that's subject to this petition with the obstruction.

Joe Harrison, Jr.: Well, that is something that Mr. Mueller will look at, because he's going to have to do an investigation. Who do you think owns the property?

Kurt Eckert: The actual petitioner actually owns this piece of property where the culvert is located that's in question.

Commissioner Abell: That doesn't make sense.

Joe Harrison, Jr.: Okay, so, it's your, now, how are you connected with this?

Kurt Eckert: I work, I am here on behalf of Gerald Moore.

Joe Harrison, Jr.: Yeah, but what do you do for a living?

Kurt Eckert: I'm an attorney.

Joe Harrison, Jr.: Okay. Your name again is?

Kurt Eckert: Kurt Eckert. I'm with the law office of Trimble and Jewel.

Joe Harrison, Jr.: Okay. So, you are here on behalf of Mr. Moore?

Kurt Eckert: Yes, that's correct.

Joe Harrison, Jr.: And, Mr. Moore is the alleged respondent, or he is the respondent, because they accepted the petition.

Kurt Eckert: Exactly.

Joe Harrison, Jr.: You're saying that the petitioner, Mr. Burkett, he and his wife, actually own the area where the obstruction resonated from?

Kurt Eckert: There's a question of fact about that matter. That the, I believe the petitioner has alleged that he owns that property at various times. So, it's not been a surveyed boundary. So, it's an open question as far as who's property that actually is.

Joe Harrison, Jr.: Okay. If you so desire, if you want to provide any information to Mr. Mueller to—

Kurt Eckert: I will.

Joe Harrison, Jr.: — assist him with his investigation, that would be helpful.

Jeff Mueller: Okay, thanks.

Joe Harrison, Jr.: Thanks.

President Melcher: Okay, since we voted on it, let's set a date. That will make everybody move faster on figuring out who owns what.

Commissioner Abell: That's a good idea.

President Melcher: So, you said June 4th and June 18th ?

Jeff Mueller: Yes, sir.

President Melcher: Can you get done by June 18th ?

Jeff Mueller: Yes, sir.

President Melcher: Okay. We'll just set that date. June 18th, or if you get it done sooner you come to us.

Jeff Mueller: Okay.

President Melcher: That will give you plenty of time, because if the petitioner owns it, then we need to find that out too.

Jeff Mueller: We'll dig into it as quickly as we can, and try to figure out what's going on out there.

Commissioner Abell: Okay. It's strange.

President Melcher: Okay, is that okay?

Commissioner Abell: Very strange.

President Melcher: Okay.

Ditch Maintenance Claims

President Melcher: Okay, next we have no claims.

Public Comment

President Melcher: Any public comment from anybody? Everybody has run out.

Commissioner Abell: We're public commented out.

President Melcher: Okay, we'll go ahead and stand adjourned so we don't have to pay another \$100.

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

Those in Attendance:

Stephen Melcher
Jeff Mueller
Kurt Eckert

Joe Kiefer
Joe Harrison, Jr.
Others Unidentified

Marsha Abell
Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MAY 14, 2013**

The Vanderburgh County Drainage Board met in session this 14th day of May, 2013 at 6:17 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, if everybody is okay, we'll go ahead and start the Drainage Board this evening. It's May 14, 2013. It's about eighteen after six.

Pledge of Allegiance

President Melcher: If we could all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the May 7, 2013 Drainage Board Meeting Minutes

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

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Drainage Encroachment Agreement: Steve & Penny Garrett

President Melcher: Drainage encroachment agreement with Steve and Penny Garrett.

Jeff Mueller: Yes, on this particular one, first of all, I want to comment that because of the problems with Huang-Huston, the Building Commission and Area Plan have been very good about when people want to put in a swimming pool, they send them over to the Surveyor's Office, saying you'd better check your drainage easement first. So, that's something at least positive that came out of that. On this particular issue, these folks live in Chadwick Subdivision. They've got a 35 foot drainage easement in their backyard.

Commissioner Abell: They live where? I'm sorry.

Jeff Mueller: Chadwick Subdivision, which is behind Scott School.

Commissioner Abell: Oh, okay.

Jeff Mueller: They have a 35 foot drainage easement, and it's essentially flat ground back there. What they're asking for is to be able to encroach 11 feet into that 35 feet, part of that with a pool, part of it with a deck, and a little bit of that with the dirt that would go from where the concrete goes down to it. So, they would encroach 11 feet into the 35. I went out there and looked, and also looked at the drainage plans, there's a one foot bottom swale, the most you would ever need of that swale were it going full would be, I think it's ten or 11 feet. So, even with encroaching 11 feet into it, there's still 24 feet of easement. So, there's no problem with that. Besides encroaching there, the only thing they would do is, naturally they would have one four inch diameter plastic pipe coming out for the pipe that goes around the edge of the pool for the ground water. So, I recommend that we accept the encroachment agreement. There is one thing, they have to provide us with the certificate of insurance, so we could approve it pending that. Once they've brought it in, then we could go ahead and record the agreement. I see no problem with it.

President Melcher: The water drain off, we've had water drain off from pools create problems. So, are we going to be okay with this one?

Jeff Mueller: Yes, we should be. This is just the ground water coming off of it. They're not flushing their water, they won't have their flush off there, they've got a different kind of filter system. So, they won't be flushing the filter water out is what they told us.

President Melcher: Okay. So, is this something we need to go ahead and vote on?

Jeff Mueller: Yes, sir.

President Melcher: Then I'll entertain a motion.

Commissioner Kiefer: So moved.

Commissioner Abell: And, we're accepting this with the caveat that they'll be bringing us a certificate of insurance, is that correct?

Jeff Mueller: Yes.

Commissioner Abell: Okay, I'll second it.

President Melcher: Okay, a first and a second, any other further discussion? Madelyn, do you want to call the roll on this?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes. Thank you.

(Motion approved 3-0)

Update on Cherry Hill Drive Drainage Issue: Evansville Health Campus

President Melcher: Update on the Evansville Health Campus.

Jeff Mueller: Every now and then it's nice to put one to bed. That's what I'm hoping we can do tonight. If you just recall, that's where we had the problem with the, we had a pipe coming down through here, and then that pipe went into another pipe, and, you know, we had some blockage. We had two neighbors that were complaining out there. If you'll remember from the previous discussion, what we said was really they need to take the pipe out and put this nice little five foot bottom ditch in. That's what they've done. So, I would like to compliment the folks, the owners out there for being good corporate citizens and coming in, and at the last rainfall, last Friday, there was some pretty good water rolling through there. We didn't have any complaints after the weekend. Linda ran into one of the homeowners out there and said so far it seems to be working. So, I think we should be thankful to the folks for doing that for us, because they did spend some money doing that, fixing that problem.

Commissioner Abell: It looks nice.

Jeff Mueller: Yeah.

President Melcher: It looks good to me.

Commissioner Kiefer: The property owners spent the money to do that?

Jeff Mueller: The Evansville Health Campus property owner, yeah.

Commissioner Kiefer: Yeah.

Jeff Mueller: Yeah, they're the property owner, I'm sorry.

Commissioner Kiefer: Okay, well, that's great. We ought to send them a thank you note or something.

Jeff Mueller: So, anyway, they were a good corporate citizen. Joe, good arm twisting there.

Commissioner Kiefer: Just out of curiosity, what kind of, how much would an improvement like that cost? Wild guess.

Jeff Mueller: Well, I don't know, I would say somewhere four to eight hours of backhoe work and a truckload of rip rap. You know, probably a thousand bucks or so, maybe a little more.

President Melcher: Probably more.

Jeff Mueller: Yeah, probably more.

President Melcher: Probably twice that.

Jeff Mueller: Yeah, well, yeah.

Commissioner Kiefer: Well, anyway, that was nice of them to do that.

Jeff Mueller: Yeah, \$80 to \$100 an hour for the backhoe, plus some, yeah, you're over a thousand.

Commissioner Kiefer: Yeah, okay.

Jeff Mueller: Okay.

Commissioner Kiefer: That's great.

Jeff Mueller: Just thought I would bring that up.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Next is the Burkett-Moore drainage obstruction petition update.

Jeff Mueller: If you remember, we had, at the last meeting, this petition come forward, and we had an attorney come up, his name was Kurt Eckert, and he said, you know, folks, the petition, you're asking for this petition, but it's not even on Mr. Moore's property. The only thing I can tell you, without getting into the actual obstruction petition, is that we went out to the Burkett's and we said, you know, we were still on their property and they said, that's our problem, they pointed to it over there. The alleged obstruction, which I'm not going to get into whether it is or isn't, it's on the Moore's property. We need to move forward with the obstruction petition, having the hearing on June 18th, as we'd scheduled.

President Melcher: That's fine with me. Any questions?

Commissioner Kiefer: No, sounds good.

Commissioner Abell: That's fine with me.

Jeff Mueller: The only thing I wanted to mention is, the attorney, I gave him my business card that night, you know, he was going to send me some information. I never got it. So, I'm not sure what went on there.

Madelyn Grayson: Joe Harrison, in the past what we've done is we've sent certified letters to the petitioner and the respondent—

Joe Harrison, Jr.: Yes.

Madelyn Grayson: —telling that's it's officially been scheduled for June 18th.

Joe Harrison, Jr.: That's what we'll need to do.

Madelyn Grayson: I'll get with you, Jeff.

Commissioner Abell: It's going to be June what?

Jeff Mueller: 18th.

Joe Harrison, Jr.: The 18th at, we'll just say following the Commissioners meeting.

Jeff Mueller: Okay.

Commissioner Abell: Okay.

Huang-Huston Drainage Obstruction Petition Update
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President Melcher: We've still got this on here, update of the status of the Huang-Huston drainage obstruction petition. Are we still working on that?

Jeff Mueller: We've got one more before there.

President Melcher: Oh, I did, let's go ahead and talk about that one since I've already mentioned it.

Jeff Mueller: Okay, I sent a letter to Candie Huston. She called me. They do have, she is back living in the house. It got finished. Basically, what she told me was that she was working with Easley on getting an encroachment agreement, because they owe us that, and she said she was talking to some folks on, you know, on the cost of doing the necessary, the requirements that came out of the obstruction petition, which there was like a gutter to be put in and some things like that. Then, she also asked me about, you know, well, where were the Huang's at on their portion of moving their fence and moving their storage barn. Linda and I are going to go out and talk to the Huang's on Friday, because they had came in and actually kind of started this with, hey, what's going on with this. So, we're going to kind of get going with them, and then I will continue to call, talk to Candie, and say, you know, hey, you need to, keep prodding her, I guess is what I'm saying, but, we have made contact with her, and I am going to try to keep her moving on this. So, but she owes us an encroachment agreement right now. That was supposed to have been done after the first of the year. So, you know, she said, well, I've talked to Easley, well, that was a couple of weeks ago. So, it's kind of time to say, hey, are you going to be coming in with this encroachment agreement?

President Melcher: I think the other family is just waiting on something to happen, because, at least that's what I think.

Commissioner Abell: That's what I think too.

President Melcher: I think they're not going to move that yard barn or that fence until they see something moving out there.

Jeff Mueller: Right, and the other thing—

President Melcher: And, I would do the same thing.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: Yeah, she needs to get that encroachment agreement before they're going to probably do anything.

Commissioner Abell: I don't think that's Easley's fault, because she didn't pay them.

Jeff Mueller: No, no, no, she wasn't, she was just saying—

Commissioner Abell: She didn't pay them, that's why they didn't do it.

Jeff Mueller: – she using Easley to do the work. I didn't mean to imply that.

President Melcher: You know, what, all of the meetings we've been at with them, he's not budging until she does something, and I don't blame him.

Jeff Mueller: The other issue that she brought up to me, and which I pointed out, that's between her and them is, is that she's going to need some kind of construction easement to do some of that work. He's going to have to move the fence, she's going to need a construction easement from him–

President Melcher: Well, didn't we–

Jeff Mueller: – but, that's between them. That's between those two.

President Melcher: – I think we've already talked about that.

Commissioner Abell: Yeah.

Jeff Mueller: Yes.

President Melcher: They were willing to do it.

Commissioner Abell: At one point.

President Melcher: At one point, as long as it gets going.

Jeff Mueller: Right, so, that's what I need to do is get pushing.

President Melcher: That one should be solved.

Jeff Mueller: Yeah.

Commissioner Abell: This thing has been going on for over a year, hasn't it?

Jeff Mueller: So, it's kind of sat.

President Melcher: I was going to say two years probably.

Jeff Mueller: So, I guess, what I'm trying to say is, it's kind of sat, and we kind of need, I'm trying to do some nudging.

President Melcher: Okay.

Jeff Mueller: Alright, and I'll continue to nudge.

Receive Plocik-Baker Obstruction Petition

President Melcher: Now I'll go back up to what I skipped.

Jeff Mueller: Okay.

President Melcher: I should have been marking it off. I guess, the, yeah, the one she just gave us is the Plocik-Baker drainage obstruction petition.

Jeff Mueller: Yes. Let me, excuse me here just a second. I tried to shorten my speech a little bit on the read in of the minutes, but, okay, here we go. The petition to remove an obstruction from a natural surface watercourse or drain was filed with the Vanderburgh County Auditor's on May 10, 2013. The petition is from Daniel Plocik, I think is how he pronounces it, of 14686 Old State Road, Evansville, Indiana. The petitioner is petitioning the Drainage Board to order the removal of an obstruction alleged to exist at 14662 Old State Road, which is an adjoining landowner and neighbor. The petitioner names the adjoining neighbor and specifies an obstruction of wooden barriers and earthen dams. The United States Postal Service receipt of a certified mailing was enclosed with the petition. That mailing is a required notice by the petitioner to the adjoining neighbor upon which the alleged obstruction is located, requesting the adjoining neighbor to remove the alleged obstruction. The original copy is available, and a copy has been supplied to you for your review. Along with the petition, the filing fee of \$100 was received. Under I.C. 36-9-27-4, a person who owns land, a tract of land may seek the removal of an obstruction from a drain or natural surface watercourse located outside the person's tract in order to promote better drainage of the person's tract. If the owner of the land on which the obstruction is located, upon request, does not remove the obstruction, the person seeking the removal of the obstruction may file a petition asking the Drainage Board to remove or authorize the removal of the obstruction. For purposes of the petition process, a drain is defined as a mutual drain which is located on two or more tracts of land that are under different ownership as established by the mutual consent of all owners and was not established or made subject to any drainage statute. A natural surface watercourse is defined as an area of the surface of ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction and channel. Based upon aerial photography, it appears that this petition addresses an alleged obstruction of a natural surface watercourse. Everything appears to be in order to me, and the County Surveyor recommends that the Drainage Board accept this petition from Daniel Plocik. Should you accept the petition, that will enable the County Surveyor, a member of the Drainage Board, or their authorized representative to enter onto private property to conduct an investigation, specifically as to the alleged obstruction at the location only. An oral and/or written notice will be given the owner of the property where the alleged obstruction exists prior to entering upon the property. After the investigation, a written report will be made to the Drainage Board, then the Drainage Board is obligated to hold a hearing, during which the petitioner, Daniel Plocik, can present his information regarding the alleged obstruction, and the respondent, Tim and Lisa Baker, may reply. 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 watercourse or drain. The required Drainage Board hearing must be held at least 30 days, but at least, but less than 90 days after the date of the filing of the petition. Which based upon the filing of May 10, 2013, would require that the hearing occur between June 9, 2013 and August 8, 2013. During that period the Drainage Board is scheduled to meet on June 18th, July 9th and July 23rd. At this time I'm requesting a motion of the Drainage Board to accept the petition from Daniel Plocik that was filed with the County, the Vanderburgh County Auditor on May 10, 2013. I'm having trouble talking tonight.

President Melcher: Any questions? Is there a date that you would like to pick? Let's do it on another date besides the 18th.

Joe Harrison, Jr.: Yeah, I would do it in July, one of those two. What is it the 9th and the 23rd?

President Melcher: The 9th or the 23rd.

Jeff Mueller: It's not going to be real complicated. So, yeah, the 9th, I mean, the 9th would be fine. Either one.

President Melcher: The 18th we could be busy.

Jeff Mueller: Right, well, and I didn't know what your schedules were like for those, the 9th and the 23rd. So, it's up to you all.

Commissioner Abell: Okay.

President Melcher: The 9th is okay with me, if it's okay with everybody.

Commissioner Abell: June 9th?

President Melcher: Yes. No, July 9th.

Jeff Mueller: July 9th.

Commissioner Abell: July 9th?

Commissioner Kiefer: Okay, motion to accept.

President Melcher: The July 9th?

Commissioner Abell: July 9th.

President Melcher: Okay.

Commissioner Abell: I'll second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Okay.

(Motion approved 3-0)

Other Business

President Melcher: Other business?

Jeff Mueller: I have none.

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims?

Jeff Mueller: None.

Public Comment

President Melcher: Public comment? There isn't any. We stand adjourned.

(The meeting was adjourned at 6:32 p.m.)

Those in Attendance:

Stephen Melcher	Joe Kiefer	Marsha Abell
Jeff Mueller	Joe Harrison, Jr.	Madelyn Grayson
Others Unidentified	Members of Media	

VANDEBURGH COUNTY
DRAINAGE BOARD

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
JUNE 4, 2013**

The Vanderburgh County Drainage Board met in session this 4th day of June, 2013 at 5:50 p.m. in room 301 of the Civic Center Complex with Vice President Joe Kiefer presiding.

Call to Order

Commissioner Kiefer: I would like to call to order the Evansville-Vanderburgh County Building Authority.

Commissioner Abell: Building Authority?

Commissioner Kiefer: I mean, I'm sorry. I'm reading the wrong agenda. I thought something sounded funny. I would like to call to order the Vanderburgh County Drainage Board for June 4th.

Pledge of Allegiance

Commissioner Kiefer: If, Marsha, Commissioner Abell, if you could do the Pledge, that would be great.

(The Pledge of Allegiance was given.)

Commissioner Kiefer: Okay, I got a little flustered there reading the wrong agenda. I apologize. Now, if we get this done in ten minutes, will we still be on our dime? Or, are we starting a new tab here for the televised?

Commissioner Abell: I'm not sure, but I'll get to go to the homebuilders dinner.

Approval of the May 14, 2013 Drainage Board Meeting Minutes

Commissioner Kiefer: Approval of the previous minutes.

Commissioner Abell: So moved.

Commissioner Kiefer: Second. All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye.

(Motion approved 2-0)

Final Drainage Plan Approval: Wynnfield Subdivision, Section 7

Commissioner Kiefer: Request for approval of final drainage plan, Wynnfield, Section 7.

Jeff Mueller: Yes, I've given you a small checklist there for Wynnfield. The preliminary drainage plan for that was originally approved, it was called McCutchan Gardens back in October 23, 2000. Over the years you've been given sections of

that and you've approved the final drainage plan, section 6, as a matter of fact you approved that on July 24, 2012. This is for section 7, it's the final 60 lots in that subdivision. You just did the road and streets previously in this subdivision. I don't have any problems with this drainage plan, so I recommend approval.

Commissioner Kiefer: Okay, discussion?

Commissioner Abell: I've been out there.

Commissioner Kiefer: Is there a motion?

Commissioner Abell: I'll move approval.

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

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

Revised Drainage Plan: Blue Heron Estates: Lot 7

Commissioner Kiefer: Okay, minor revision to the drainage plan, Blue Heron Estates, Lot 7.

Jeff Mueller: On this particular issue, on lot 7, there is a steep ditch that's designed for behind this house, and the house gets pretty close to it. The ditch really doesn't carry a whole lot, when I say ditch it's really, I should really use the word swale. The swale really doesn't carry a lot of water. We've been approached with a minor revision instead to put a 12 inch, a county spec 12 inch pipe in that, and then be able to fill over it. It will give the builder a little bit better lot for that, and also one of the things I like is they came to us in advance, so, instead of a homeowner in the future going to one of the building centers and putting a four inch pipe in there and having a problem, we've got a 12 inch pipe in there that's going to carry the water, it's going to be done right. Like I said, the only thing it's going to drain is like another lot and a half. I recommend that we approve the change. I do believe there's someone here that may want to speak on it. Do you have anything to say about it? Okay, maybe not.

Commissioner Kiefer: Are there any questions? No? I'll make a motion to approve as recommended. I mean, I'm asking for somebody to make a motion. Do we need a motion for that?

Commissioner Abell: I'll move to accept it.

Commissioner Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

Commissioner Abell: Where do you go from here, Jeff? Are you going to supervise this?

Jeff Mueller: I can. I mean—

Commissioner Abell: Do you?

Jeff Mueller: Oh, on the pipe you mean? I'm sorry.

Commissioner Abell: Yeah.

Jeff Mueller: We can check it after it's installed, yes.

Commissioner Abell: That's what I meant. Yeah, okay.

Jeff Mueller: Yes.

Final Drainage Plan Approval: Sheffer Carson Plaza

Jeff Mueller: Okay, the next one, a little more complicated, Sheffer Carson Plaza. As you might be aware, that's the plaza just south of Boonville-New Harmony Road on the east side of 41. Roca Bar Pizza is there. It's a five lot commercial subdivision. Originally the drainage plan was brought before the Board, the preliminary drainage plan was brought before the Board on November 9, 2010 and the Board approved that drainage plan. It was not, it was just a preliminary because the final was not brought forth because they were waiting for INDOT approval, which INDOT has approved that plan since then, but the problem was we never got final approval on the drainage plan out there. That came about when we were going through site review for lots three and four for a proposal for a bank out there. The other problem is that the approved drainage plan was, the approved preliminary drainage plan was supposed to be under the parking lot, you know, through pipes, a storage system through pipes. What has been built out there, partially is an open retention pond. So, the other issue is that a sanitary sewer has already been installed, and it's located within the drainage easement, which normally we don't have that happen. I guess, where we're at is that if you guys don't have a problem with the sanitary sewer being there, then the plan that's proposed will work. However, the other issue is that what we have out there is we've had kind of a partial basin constructed, a retention pond constructed, and the pond, the work needs to be completed. We need to get some work done because it's been developed for a couple of years. I guess, where I'm coming from on my recommendation is this, or my thoughts is this, if you don't have a problem with the sewer in the right-of-way is to go ahead and approve it, because by approving this drainage plan we can then allow the development on lots three and four for a bank that some folks are, you know, were trying to get done. By the same token, the developer will still own lot two and lot five, and lot two he's got some ideas about, and lot five there's a sign out

there about a proposed car wash. Before we would sign off, before I would sign off on a site review on those next things, he would have to get the basin done that's planned. We could send him a letter saying, hey, we're moving ahead with the drainage plans so that Evansville Teachers Credit Union can build, but you need to finish your retention pond before I sign off on anything more out there. So, that's my, kind of the picture and my recommendation on—

Commissioner Kiefer: So, Jeff, the original plan that was approved was not followed?

Jeff Mueller: That's correct.

Commissioner Kiefer: And, now, it's basically out of compliance with the original plan, because they never built it according to that plan?

Jeff Mueller: That's, yeah, I guess, yeah, I would say that's correct, Joe.

Commissioner Kiefer: Okay, and, the sewer pipe is in the drainage easement?

Jeff Mueller: It's in the easement, it's underneath...the retention pond is actually like a long, wide ditch is about the best way to describe it, Joe. It's in front. If you've ever driven by there—

Commissioner Kiefer: Yeah.

Jeff Mueller: —you'll notice there's a bunch of rip rap there and that's actually the retention pond, but the retention pond is supposed to be built another, to the design that they've got now, the pond would have to be built at about another 70 or 80 feet to the south. Then there's an outlet structure, right now they've got a temporary pipe type in there and they need a permanent pipe with an outlet structure that's been designed, and the rip rap needs to be put in place, and the concrete ribbon needs to be put in. I've got kind of a checklist of some things, and they need to submit an engineering certification when the work is done.

Commissioner Kiefer: So, your recommendation is to accept this revised plan?

Jeff Mueller: I would reluctantly, yes. Reluctantly accept it, yes.

Commissioner Kiefer: Yeah, I mean, I understand there was a, they had trouble with INDOT. It's just frustrating that we had a plan, the plan was approved and then it was not followed. So, I guess, that's a little bit frustrating, because, you know, we could approve this plan tonight, you know. I mean, are they going to follow it?

Jeff Mueller: Except that by me telling them that I'm not going to sign off on any more site reviews—

Commissioner Kiefer: Right.

Jeff Mueller: — on lot two and lot five. I'll send them a letter to that effect, saying, guys, you've got a chance, you can move ahead with your one project, but, no more until this gets done, and here's the checklist of what things I want to say.

Commissioner Kiefer: Yeah.

Jeff Mueller: So, I think, you know, that way we allow for the site three and four

development to move forward—

Commissioner Kiefer: Right.

Jeff Mueller: – because that's been purchased by another party, but, yet, then we hold the developer's feet to the fire by saying, you've got a mulligan, but that's it.

Commissioner Kiefer: Yeah. No, I agree. Commissioner, do you have any questions?

Commissioner Abell: As long as the County Surveyor is happy, I'm happy.

Commissioner Kiefer: Okay. Well, Jeff, if you don't mind, really stay on top of them. Make sure they, because if we find out a couple of years from now, I mean, it's going to be, I'm going to be upset that, you know, they didn't follow the plan the second time, after you give them this gracious out here.

Jeff Mueller: Yes, I agree.

Commissioner Kiefer: With that, I'll ask for a motion to approve.

Justin Shofstall: Justin Shofstall with Easley Engineering. The original plans that were approved by the County Commissioners and the Drainage Board was October 26th and November 9, 2010. Unfortunately, as far as what happens occasionally with developers and contractors who are developing their lots and also happen to be a contractor, they have a tendency to occasionally think well, I can go ahead and make those changes and I'll deal with it later on. Unfortunately, this is one of those cases. I think one of the things I do want to reiterate and also emphasize that Mr. Mueller had touched on is the fact of, in addition to these plans that are before you, we do state in our drainage plan report that they go ahead and continue the current construction they have, based off of what their intent is, that all of the storm water detention drainage is handled for all of those lots of one, two, three and four. What we're asking for is that final approval for those four lots. Lot five, which has not been developed yet, we specifically state on the plans, whatever they have for an engineered designed drainage plan still has to come before the Drainage Board prior to approval for these site location permits. So, that way we kind of have the double take on there besides going through the normal site review approval, that they still have to come before the Drainage Board. At that time would be the great time to make sure, hey, where's your as-builts on this? Have you constructed the basin as per that last approved plan? Or, are you modifying the plan once again, and how are you modifying it to make it conform to the Vanderburgh County drainage ordinance? So, I think that's one of the other things that we've incorporated in the plan to make sure that the developer, in the future, does conform to what we're proposing here, and that the Drainage Board themselves do have the chance to approve that and make any comments known at that time whenever they do any additional development on these other lots.

Commissioner Kiefer: Thank you.

Commissioner Abell: I'll move for approval.

Commissioner Kiefer: Second. Roll call vote.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

Commissioner Kiefer: Okay.

Jeff Mueller: I will copy you on the letter that I send too.

Commissioner Kiefer: Thank you.

Update on Huang-Huston Drainage Obstruction Petition

Commissioner Kiefer: Okay, the update on the status....that's the one that's not going away. The Huang-Huston.

Jeff Mueller: Okay, we called Ms. Huston, and she came into the office last week, Linda sat down with her, I was with her a little bit. We kind of went through, here's what you've got to do. We've got a list of things, because right now she owes us an encroachment agreement, and in order to do that she owes us a certificate of liability insurance. Also, she owes an easement to, payment to Tim Scheu so she can get her easement. So, she owes some paperwork and some work, and then she also needs a construction easement from the Huang's before she can ever get going. So, we sat down and kind of said, one, two, three, this is what you need. What we're trying to do is hopefully have her in here at the next meeting with some of this paperwork done, that we could get her, that she'll have this Scheu easement done, and that she'll be coming in here with an encroachment agreement, so that we can move forward. So, that's kind of what we're working on. She's also kind of like, well, I don't know who to contact. We said, hey, here's a bunch of different contractors, go out and get some things. So, we're trying to work with her to help her through this, but we're also trying to hold her feet to the fire at the same time. So, I hope that she'll be in here next time with an encroachment agreement and that we'll be moving forward on this process.

Commissioner Kiefer: Yeah, I would love to see this thing finished. Okay, so you don't need any action, this is just an update?

Jeff Mueller: It's just an update.

Commissioner Kiefer: Okay, thank you.

Other Business

Commissioner Kiefer: Is there any other business?

Jeff Mueller: I have none.

Ditch Maintenance Claims

Commissioner Kiefer: No ditch maintenance claims?

Jeff Mueller: None.

Public Comment

Commissioner Kiefer: Public comment?

Joe Harrison, Jr.: Can I ask one thing?

Commissioner Kiefer: Sure.

Joe Harrison, Jr.: Do we have an obstruction hearing at the next meeting?

Jeff Mueller: Yes.

Joe Harrison, Jr.: What's the deal with that?

Jeff Mueller: It's set for the next meeting?

Joe Harrison, Jr.: Okay, which one is that?

Jeff Mueller: That is the—

Joe Harrison, Jr.: The Burkett—

Jeff Mueller: Yeah, Moore.

Joe Harrison, Jr.: Okay.

Jeff Mueller: And, then we have one again July 9th, that's the Baker-Plocik.

Joe Harrison, Jr.: Okay, and as far as the Burkett, you're going to send us a report?

Jeff Mueller: Yes.

Joe Harrison, Jr.: Before the meeting?

Jeff Mueller: Yes. I'm working on it now. I'm hoping to have it done here—

Joe Harrison, Jr.: Sometime.

Jeff Mueller: — sometime soon, yes.

Commissioner Abell: Is one of these the one that didn't know who owned the property?

Joe Harrison, Jr.: Right.

Jeff Mueller: That's the next one, yes.

Joe Harrison, Jr.: Oh, no, no, I think this is Burkett, where they disputed the ownership.

Jeff Mueller: Yes, that's the one that's coming up.

Joe Harrison, Jr.: Yeah, okay.

Jeff Mueller: On the 18th.

Commissioner Abell: On the 18th?

Jeff Mueller: Yes.

Commissioner Kiefer: Is there a motion to adjourn?

Commissioner Abell: So moved.

Commissioner Kiefer: We are adjourned.

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

Those in Attendance:

Joe Kiefer

Joe Harrison, Jr.

Others Unidentified

Marsha Abell

Madelyn Grayson

Members of Media

Jeff Mueller

Justin Shofstall

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
JUNE 18, 2013**

The Vanderburgh County Drainage Board met in session this 18th day of June, 2013 at 6:14 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's June the 18th. It's about fourteen after six.

Pledge of Allegiance

President Melcher: If we could rise for the Pledge.

(The Pledge of Allegiance was given.)

President Melcher: Thank you.

Approval of the June 4, 2013 Drainage Board Meeting Minutes

President Melcher: We need approval of the previous minutes.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Final Drainage Plan: Enclave at Eagle Cliff

President Melcher: Next, we're going to change the schedule around a little bit. Jeff wants to hear the final drainage plan approvals for Enclave Eagle Cliff.

Jeff Mueller: What I've given you is two things on this. One is a letter from Morley and Associates, and the second is the final drainage plan checklist. We've went through this, back and forth, and had Mr. Morley make a number of changes, and we've got it the way that I'm satisfied with it. One of the things that I do want to point out is that he is requesting a waiver of the drainage ordinance in that we require 50 foot from an occupied structure to the storm retention basins. This is something, as I've looked around, I don't think we've followed it in a lot of cases, and really what we've done in place of it is a lot better. That's where Mr. Morley has calculated the 100 year storm and set the floor elevations of the buildings so that they're above that 100 year storm. So, actually, I would prefer to see that than I would 50 feet, 100 feet doesn't make any difference if you get water in your basement. If you're above the flood, you know, the water coming into the basin, that's a lot better alternative. So,

other than that, I find that he's met the code on the final drainage plan, and I'm here to seek the approval of the Drainage Board for acceptance of the final drainage plan.

President Melcher: Any questions?

Commissioner Kiefer: None.

President Melcher: Is there any remonstrators? I will take a motion.

Commissioner Kiefer: I'll make the motion to approve.

Commissioner Abell: Second.

President Melcher: Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

<p>Invironmental Technologies/American Red Cross Drainage Issue: Letter from Tom Norton</p>
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President Melcher: Next we have a letter from Tom Norton regarding Invironmental Technologies LLC/American National Red Cross.

Commissioner Abell: Oh, no. I thought we'd put that to bed.

President Melcher: I thought we did too.

Jeff Mueller: We received a letter, and we actually thought that you all had gotten it and hadn't. So, I e-mailed it to you last night. Mr. Harrison and I met. Mr. Norton was not here tonight, was not going to be here tonight, but he wants to be here on July 9th to discuss that. My understanding is that the Invironmental Technologies has refused to sign the drainage easement that the Red Cross is needing in order to put the pipe in. So, he would like to come in and talk to you about that.

Joe Harrison, Jr.: I think it would be prudent to put that on the agenda at the next meeting and at least hear a different perspective, because it's something that should have been resolved awhile back.

President Melcher: Is this back on the disagreements? Do you know anything else?

Jeff Mueller: Well, what I understand is—

Joe Harrison, Jr.: Go ahead.

Jeff Mueller: – that the Red Cross had proposed an easement, and Mr. Brady's refused to sign it. I'm not sure exactly why. I mean, he had said something about having problems with it before about granting a 20 foot easement, but there's nothing in the easement that says it's 20 feet. I'm really not sure why he's not agreeing to sign it.

President Melcher: Okay, that's enough. We'll hear him. Just put it on the next agenda.

Update on Huang-Huston Drainage Obstruction Petition

President Melcher: Okay, next, update, this is the night, isn't it? Update on the Huang-Huston.

Jeff Mueller: Huang-Huston, yes.

President Melcher: This is a two year thing.

Commissioner Kiefer: This is like a bad penny. It keeps showing up.

Joe Harrison, Jr.: Well, maybe it will be about done. Let's see if Jeff has a thought on it.

Jeff Mueller: We had Candie in the office. She was supposed to come back and do certain, perform certain things, which was mainly, you know, starting to pay for the easement, the encroachment agreement and everything else. We haven't heard from her. Linda sent her an e-mail saying, you know, what's going on? Why haven't you done some things? You know, you need to be doing some things. We invited her to come tonight. My personal suggestion is that we send a letter to her saying that she needs to appear before the Board on the 9th, and at that time tell her you either are going to do this, or we need to do it for her, but we're not moving ahead with this at all. It's unfortunate. Nothing's getting done.

Joe Harrison, Jr.: What we're proposing, I met with Mr. Mueller about it, and we're talking about communicating with her a couple of different ways, you know, certified mail, e-mail, snail mail, and have her show up at the meeting. If she doesn't cooperate, I think the county can take the matter into their own hands and put a lien against her property.

President Melcher: So, in other words, fix it and charge her?

Commissioner Kiefer: I think that's going to be the best approach.

President Melcher: Well, that's what we're going to do, but, send the letter.

Joe Harrison, Jr.: Yeah, we've gotta do that...but I'm just, that's a possibility.

Commissioner Kiefer: Yeah, why don't we advise her of that.

President Melcher: That's not even going to be a possibility. We're going to send a registered letter, a regular letter and an e-mail saying that you must appear, or we're going to handle it. Do you want to say that? Will you write the letter?

Joe Harrison, Jr.: Mr. Mueller and I will work on it, but we've already discussed that.

President Melcher: Okay.

Joe Harrison, Jr.: We've already talked about it.

President Melcher: Alright.

Commissioner Kiefer: Okay. Sounds good.

President Melcher: Do I have a motion to approve the letter?

Commissioner Kiefer: So moved.

Commissioner Abell: I haven't seen the letter.

Joe Harrison, Jr.: Well, why don't we have a motion to approve putting it on the agenda for the 9th.

President Melcher: Putting it on the agenda then.

Commissioner Kiefer: And writing a letter.

President Melcher: I didn't mean the letter.

Commissioner Kiefer: I thought you meant motion to approve writing the letter and sending it out.

President Melcher: Yeah, how's that?

Commissioner Abell: Okay.

Commissioner Kiefer: So, what is the motion exactly?

President Melcher: You just said it.

Commissioner Kiefer: My motion was to put it on the agenda and to send her a letter of notification as stated by Commissioner Melcher.

Commissioner Abell: I'll second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Commissioner Abell: I do have a question though.

Jeff Mueller: Yes?

Commissioner Abell: It wouldn't change my vote, but, so, how much is this going to cost to fix? If we're going to, if we were to fix it and put a lien on the property, how much are we talking about?

Joe Harrison, Jr.: He's looked at it. He's got kind of an idea.

Jeff Mueller: We're probably, we're looking at over \$10,000.

Joe Harrison, Jr.: Maximum.

Jeff Mueller: Well, I mean, or it could be a little over that, you know.

Joe Harrison, Jr.: Okay.

Commissioner Kiefer: It doesn't include removing the pool? I say do it the cheap way by removing the pool.

President Melcher: That's a whole different story.

Commissioner Abell: I just hate to spend taxpayer money like that, but I understand we have to. I get it, but I don't like it.

Joe Harrison, Jr.: No, I don't think anybody wants to do it.

Jeff Mueller: No, and I wish she would make some effort to do something. I mean, there's some things that she could have done, paid for the easement, got in here and got an encroachment agreement done, things like that, but, you know, here it is, it's June and none of that's even been done. It's time to take a stronger attitude towards her.

Commissioner Kiefer: If we put a lien on it, we'll get our money when she sells the house. At some point we'll recover our money.

Commissioner Abell: Do we get to recover with interest?

Joe Harrison, Jr.: I don't know. We'll have to see on that. Maybe. We'll have to check.

Jeff Mueller: Yeah.

Commissioner Abell: I think we need to make it stiff enough to get some attention. I don't have the sympathy for her that I have for the other people, because she's got a swimming pool in her backyard. You know, if she can afford to put a swimming pool in, she ought to be able to afford to do it right.

Joe Harrison, Jr.: Well, we'll see what happens, but, certainly, that's a possibility. I don't have a problem with putting interest on it, if we have to.

Jeff Mueller: I'll check and see if that's part of the regulations or whatever. If when that's attached if interest gets charged. I'll find that out.

President Melcher: Okay, moving on. Other business? Do you got any?

Jeff Mueller: We've got the obstruction petition.

Drainage Obstruction Petition Hearing: Burkett-Moore

President Melcher: Let me get my glasses better here. Obstruction petition hearing Burkett-Moore. That's what I get for moving that one up and trying to keep these numbered right.

Surveyor's Report:

Jeff Mueller: Yesterday I e-mailed you my Surveyor's report, a signed copy of which I gave Madelyn for the files. In an effort for continuity, the format of that report that I sent you was similar to a recent report that was done by Mr. Jeffers in 2012 on a different obstruction petition. The petitioners are Greg and Terri Burkett, 6920 Staubs Lane, Evansville, Indiana, 47720. The respondent, Gerald Moore, 6810 Staubs Lane, with a mailing box of Post Office Box 4108, Evansville, Indiana, 47724. The petition was filed on April 16, 2013. It was entered by the Board at a regular scheduled meeting dated May 7, 2013. Notifications were sent to both parties by certified mail. The return receipt was received from the Burkett's, but not from Mr. Moore. Both parties were also verbally notified at the time of the respective site visits. I know the Burkett's are here. Mr. Moore had indicated that he did not plan to attend, but that he may have a representative present. I understand that there is a representative here for him also. The Burkett property lies near the end of Staubs Lane, which is located off of Mesker Park. To the south of the Burkett property is property owned by Gerald Moore, the property in which the alleged obstruction has occurred, and also Raymond and Betty Grubb. The Burkett property shares a common property line, let me back up, Staubs lane would be over here, the Burkett property has about a 429 feet of common property.

Commissioner Abell: We can't see what you're doing.

President Melcher: We can't see what you're doing.

Jeff Mueller: Sorry, maybe I can do that with the mouse. Yeah, there we go.

Commissioner Abell: Now, that's better.

Jeff Mueller: The Burkett property and the Moore property share a common property line right here, that long stretch of property. Then, the Grubb's property shares a smaller piece of common property with the Burkett's right here. This is Staubs Lane right here. The picture that you see right here is taken from this point. So, what we're doing is looking down the driveway as it goes across the Grubb's, and then eventually goes into Mr. Moore's property. Okay? Mr. Moore's property does not adjoin Staubs Lane, as you can see, but he does have a 16 foot right of ingress and egress over Staubs Lane, as well as portion of the Grubb property. The petition states that the obstruction consists of the following materials; an 18 inch culvert pipe, which is smaller than the one that was in it, which was 24 inches, also raising the driveway which is flooding property. The issue of the complaint is a driveway on Mr. Moore's property, as well as on the property of Raymond and Betty Grubb has been raised, and the culvert under Mr. Moore's driveway has been altered. According to the Burkett's, two culverts have been replaced. The first culvert is located at or near where Staubs Lane ends at the Grubb's property, but due to the location of this culvert being on the Grubb property, it's not part of this obstruction petition. The second culvert is located on Mr. Moore's property.

Greg Burkett: (Inaudible. Not at microphone.) my property.

President Melcher: We'll let him finish, and you'll be able to come up afterwards.

Jeff Mueller: According to, okay, and there you can see where the property, the roadway has been raised. Okay? According to the Burkett's, the second culvert was installed, replacing a shorter 24 inch diameter culvert in the driveway with a longer concrete culvert, 18 inches in diameter. So, what you have is, this is the Burkett's property line right here, this is the driveway. There was a pipe of some unknown length in here before. The pipe was extended all the way over into the Burkett's property, and then it was also extended this direction and there was a, kind of a homemade drop box installed, and then it was extended on. Okay? So, the culvert extends from inside the Burkett's property, down through an existing ditch and under Mr. Moore's driveway. This kind of shows you a little bit of a bend in the pipe. According to the Burkett's, prior to changes made by Mr. Moore, drainage from the ditch proceeded into Mr. Moore's property to where it went through a 24 inch diameter culvert. When this culvert could no longer handle the flow, water would run over the top of Mr. Moore's driveway. A site visit was made on Friday, May 10th between 11:00 and 11:45 a.m. to the Burkett property by myself and the office's Chief Deputy, Linda Freeman. It had been a rainy week and there had been about two and a half inches of rain over the seven day period, including May 10th, the day of the site visit. While onsite a heavy shower occurred around 11:30. While onsite, water was flowing through the culvert, however standing water was observed around the east side of the ditch in the floodway of the stream. Also, there was some blockage of the culvert due to some natural debris on the Burkett property. So, you can see the standing water. You can also see a lathe with some ribbon, that's a property line. So, what you're seeing is the water standing on the Burkett's property. The Burkett's had a survey of the south property line between their property and Mr. Moore's and the Grubb's, conducted by Andy Easley Engineering. Information from that survey was provided by Easley Engineering with the permission of the Burkett's. According to the survey, there is some title overlap on the south line of approximately five feet. However, regardless of the location of the exact property line, it is apparent that some of the culvert in question, installed by Mr. Moore, lies on the Burkett property. Linda and I made a second site visit to the area on Friday, May 17th. During this meeting we met with Mr. Moore and an associate. The culvert that is located on Mr. Moore's property, let me slide through that a little bit, there we go, the culvert is an 18 inch diameter concrete pipe, with a total length of approximately 102 feet. According to Mr. Moore, the culvert in question is the original culvert, but that he added sections to each end of the culvert. Based upon measurements and the field staking of the common property line, the culvert on the north end was approximately 13 feet across the staked property line on the Burkett's. On the south end, a modified drop box was made by utilizing the plastic pipe connecting two sections of concrete pipe. An inlet was created in the plastic pipe, and the plastic pipe served not only as a location for the inlet, but also allowed for the diversion of the culvert's direction in the final eight feet of the concrete pipe. According to Mr. Moore, he had, in fact, raised the driveway in his property, and extended the existing culvert that was under his driveway in both directions. Although he could not tell us any exact amount of the extensions. Mr. Moore stated that he had not changed the culvert diameter since he had not replaced the culvert on his property, but only added to the length of the pipe on each end.

Surveyor's Finding:

Jeff Mueller: The Surveyor's finding; both trips of the area we found the following objects and materials constituting the alleged obstruction; and 18 inch culvert, approximately 102 feet in length. The culvert includes a bend with a "home made" style junction box/inlet. Earthen fill providing additional cover over the existing driveway, and natural debris; leaves, branches, etcetera, partially blocking the inlet of the culvert. The drain in question is not a legal drain, but appears to be a natural, open channel and meets the statutory definition of a drain. The drains shows on topographic mapping dated March 1990, that's on file with the Surveyor's Office. The area drained is approximately 15 acres, and includes a portion of the area of Harper Heights Subdivision, which is just south of the Cynthiana Heights School. An analysis ran by myself, as well as Mr. Moore's consultant, Mr. Glen Merritt, of Cash Waggnar, suggests that the capacity of an 18 inch diameter culvert, which is approximately 12 cfs, which is not only below the Q25 storm, which Mr. Merritt calculated at 35 ½ cfs, but also is below a Q2 storm. I did an analysis for a 24 inch diameter culvert, 24 feet in length, which if properly functioning, should be able to carry approximately 20 cfs, which is approximately the maximum volume that would result in a Q2 storm. Therefore, if the roadway was overtopping frequently during the regular rainfall, it's either because there was only an 18 inch diameter culvert in place under the roadway prior to modifications by Mr. Moore, or if there was a 24 inch diameter culvert located under the roadway, it wasn't functioning properly. It was either plugged or partially blocked or improperly installed. So, what happens if you modify the pipe, as Mr. Moore has done, assuming it was just an 18 inch. If you would take that pipe and just add length to it, without doing anything else, you would see a six percent reduction in the capacity of the pipe. More importantly, he made this modified box, and the bend on the pipe, which decreases the capacity further. It's really hard to calculate that capacity, but definitely the capacity, if the 18 inch pipe is what was there and all he did was add to it, the capacity of the pipe has been decreased. If it's a 24 inch, naturally it would have been decreased even further. Under no circumstances should standing water result, as observed onsite for the time period in question, should the 18 inch pipe be properly installed. Mr. Moore's alterations of the 18 inch diameter culvert, and possibly the addition of fill constitutes an obstruction as defined by applicable statute, I.C. 36-9-27.4-4, which defines an obstruction, and I'll quote the law, "Section 4 (a) As used in this chapter, obstruction means a condition that: (1) exists within or near a drain; and (2) prevents or significantly impedes the flow of water through the drain. (B) The term includes the following; (1) the presence of (A) one or more objects inside or near a drain; (B) a quantity of materials inside or near a drain; or (C) damage to a drain; that prevents or significantly impedes the flow of water through the drain." The County Surveyor's investigation found conditions, objects, materials and damages (standing water) located on the Burkett's property, as well as the Gerald Moore property, which conditions, objects, materials and damages significantly impede the flow of water through the drain, thereby causing poor drainage of the Burkett's property. The Board's responsibility is to make a finding. If after a hearing held under I.C. 36-9-27.4, the Drainage Board finds that the obstruction of a drain that is alleged in the petition exists, and the removal of the obstruction will promote better drainage of the petitioner's land and not cause unreasonable damage to the land of the respondent's, the Drainage Board shall find for the petitioner. If the Drainage Board finds for the petitioner, the Board must determine, based upon a preponderance of evidence, whether the obstruction of the drain was created intentionally by the respondent. The County Surveyor ascertained through conversation with the Burkett's and Mr. Moore that Mr. Moore did make certain modifications to the culvert, including adding pipe sections at both ends of the existing culvert and raising the

road. The County Surveyor could not conclude whether the actual pipe size had been altered. If the Drainage Board finds for the petitioner 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, in this case Mr. Moore.

Summary and Recommendations of the County Surveyor:

Jeff Mueller: Summary and recommendations of the County Surveyor. Without additional evidence or testimony that may come from the proceedings of the Drainage Board hearing, because these folks have a right to stand up and talk, the County Surveyor could not sufficiently be convinced that a 24 inch diameter culvert existed with the drain to recommend that the entire existing 18 inch culvert be replaced with a 24 inch diameter culvert. The County Surveyor is of the opinion that the following recommendations are, if they are followed completely, that the additional fill height will not be required to be removed. The County Surveyor suggests the following. I'm going to show you this drawing, then I'll show you the next one, but if you saw, the first one we had about 102 feet, then we cancel it down to 60 feet, but that Mr. Moore, at a minimum, removes the modified drop structure and the last eight to nine feet of pipe on the outlet at the south side of the culvert, resulting in a straight pipe structure. That Mr. Moore have a temporary construction easement drawn up, allowing him or a contractor to perform certain work on the Burkett's property. That's going to be necessary if he's going to remove part of the pipe on the property. The County Surveyor recommends that the Board set a reasonable, but enforceable, deadline to this requirement. That Mr. Moore or a contractor remove a portion of the inlet pipe on the Burkett's property, plus additional pipes, so that the inlet of the pipe is a sufficient length off the common property line. My recommendation is at least 20 feet, and that the channel be sufficiently restored so that the water from the adjacent area to the channel will drain into the channel. The total length of the remaining 18 inch culvert should be a length to allow a sufficient roadway and four to one (4:1) side slopes on Mr. Moore's road, which should be longer than 62 feet. That Mr. Moore not add any additional fill height to the existing roadway, and that the elevation of this cover be limited to a maximum of four feet of cover over the existing culvert. That all affected area, including the restored channel and the side slopes of Mr. Moore's roadway, be sufficiently seeded and mulched to provide a reasonable ground cover that will prevent future erosion and the reduction of unwanted debris. Seed mixtures should include grasses, legumes and/or other appropriate seed for the site. The seeding should be done by September 15, 2013, otherwise we're going to have an exposed ground all through the winter. It would be nice if both parties could keep the channel free of debris so that the culvert would perform to its maximum efficiency of 12 cfs. That's my points at this time. I know some folks finally may want to get up and talk to you about this. So, unless you have any questions of me right now.

President Melcher: Do we have any questions?

Commissioner Kiefer: I just have a comment. That, thank you, you provided a very thorough report and review. I appreciate that.

Jeff Mueller: I will say though that Bill gave me a nice outline to follow. I give Mr. Jeffers some, a lot of credit too.

Commissioner Kiefer: Yeah, that was very nice. Thank you.

Petitioner's Public Comments:

Jeff Mueller: I think, normally, I guess, the Burkett's would be allowed to speak next?

Joe Harrison, Jr.: Yes, the petitioners would be the Burkett's, and they could come up and give some testimony. Then, if Mr. Moore has a representative here, he can come up and present some testimony.

Greg Burkett: Richard Greg Burkett.

Terri Burkett: Terri Burkett.

Greg Burkett: I don't know exactly how you guys want to do this, but the ditch on the other end has got to be addressed too. Where he put a pipe in. He's got this thing where he stuck it below ground, and it's turned to a mud hole and it's ruined my farmland, or actually where I put my horses. I couldn't even put them on there this last year. I had to buy hay. The debris that gets in the ditch is because he's gone on to my property in the past and tore down trees, he said to my benefit, and pulled trees out and redone the whole ditch on my property. That's one of the reasons why we're going to be having a lawsuit later after this one. That's why we came up to find this out. The ditch that he put the pipe in in the beginning, at Staubs Lane on the corner, I have the pictures here and we've also got a flash drive if you want to see it that way, but the pictures are just about as easy. (Inaudible. Not at microphone.)

Commissioner Kiefer: Do you want to turn the mic on?

Greg Burkett: Well, I'll just show you the pictures. This is the (Inaudible. Microphone not on.) This is the road looking down—

Madelyn Grayson: If you could use this, then we could get your comments on the record.

Greg Burkett: This is the road, as you look down the lane, this is the corner. This is the property line that we had drawn up. I'm trying to look at it upside down. This is all in the corner, this is the pipe that he put in. You can see, it's not doing anything. The pipe that he put in, he actually put on the Grubbs' property. He's not even allowed to be doing that. The State law says he's got ingress/egress. You do no digging below dirt. We went and checked a bunch of that on there. There's been cases filed on it. This is down at the ditch to where we're talking about where that little pipe is. Her father-in-law, or my father-in-law, Terri's dad, owned the property before he bought it. He can swear that he put a 24 inch culvert pipe in, and we watched him take that pipe out. This is all of it, this here, this is all my property back through here. This is all natural ditch. I have two subdivisions that feed into this. It's never done this. You can see we've had quite a bit of rain, but this is January 1 of '13, or '12, yeah, '13. This is where it's flooded. This is three feet deep. It's never been like this. This is where my horses are supposed to be able to walk through. I couldn't even access this. This here lake was over four feet deep. He says he hasn't been raising it, but since we sent him the notice, this is that pipe. This is where it started out. This is what he done in the beginning, and this is where it's ended up to, to where it is now you can't even see it. It's just a hole filled in, because it's this deep below the ground. The pipe before used to be right here at this tree on the Grubbs' property. It was a small pipe, you know, we used to keep it cleaned out, and it did alright. I've got two of my neighbors here that live across the street for all of their

lives, and this is what Sonny's pipe is, and that's a two foot pipe which handles the water. Then this is my pipe. The reason why I had all of this debris—

President Abell: Who's Sonny?

Greg Burkett: Oh, Ray Grubb on the corner down there. He's the owner of the corner property, the property he has to access to get to it. Like I said, we've got a bunch of pictures. This is what my ground looks like, this is where he come back and dug out around the back back there, pulled out tree stumps. He was digging holes. I can't even get to the backside of my property, because the ditch is so flooded out. This is what my ground looks like. My horses are supposed to eat off of this. This is the tree he tore down and broke down to lift the land. That's why all the debris gets there. That's what the field normally looks like, and this is what it looks like now out back.

Commissioner Abell: Oh, my gosh.

Greg Burkett: It's not a small, little contamination of water. This is where the debris comes down and just lays on the road. This is the Grubbs' access, and this is going over to his side coming down the lane. This is looking down the lane. This is where he's been adding more fill, after we called him and told him not to. Here's where he's been filling.

Commissioner Kiefer: I wonder why he keeps adding fill there?

Greg Burkett: Because it floods over. It's like the one picture we had on back, it was clear over the driveway from one end all the way up to the other. All of those trees, all of it was flooded.

Commissioner Kiefer: I mean, it's pretty clear the problem is the culvert is too small.

Greg Burkett: Yeah.

Commissioner Kiefer: The pipe is too small.

Greg Burkett: I mean, on a regular little day like that, yeah, it will rain, but then I've got to go out there every time it rains and go out there and clean everything out again, because the water comes up so deep, because it hits so quick, that it comes down and stops and it floats the wood. Wood floats, it's going to land there. I've got ten acres of ground, and it's got woods. I like to keep it natural in the backside back there. I mean, I'm being punished because I want to keep my land like it was. I've got neighbors and there's just more pictures if you guys just want to look through them all.

Commissioner Kiefer: It seems apparent that the old, you know, the previous system that was in place worked better than the new system he put in, Mr. Moore put in, that's 18 inches. It's not working.

Greg Burkett: No, it ain't. That's why he's raising the road higher and higher.

Terri Burkett: Can I say something? I've lived out there my whole life.

Greg Burkett: She grew up on the property he owns now.

Terri Burkett: Our property never flooded down there. It might have went over the driveway, but it never flooded.

Greg Burkett: Well, that's when your dad put the 24 inch pipe in.

Terri Burkett: Yeah.

Greg Burkett: We've been there twenty something years.

Joe Harrison, Jr.: So, Moore gets to talk.

Commissioner Kiefer: But, Moore's not here.

Joe Harrison, Jr.: Yeah, he's got a representative.

Commissioner Kiefer: Oh, okay. Yeah, let's here from Mr. Moore's representative. If you're okay with that.

Joe Harrison, Jr.: Unless there's somebody else. Did you have somebody else here?

Greg Burkett: Yeah, we've got Troy French and his wife.

Joe Harrison, Jr.: Why don't you let them speak what they want to say, and then Mr. Moore's attorney.

Greg Burkett: (Inaudible. Not at mic.), but he was out of town tonight.

Joe Harrison, Jr.: That's fine.

Rachel French: Hi, my name is Rachel French.

Joe Harrison, Jr.: Where do you live?

Rachel French: I live across the street on 6901 Staubs Lane. Once this culvert was completed it now floods across the lane into our property. That was a concern that we have is that now it is flooding over us. We didn't have any dog in this fight until it started flooding over into our property.

Troy French: We live, the first picture essentially is taken from our property, looking at his driveway.

Joe Harrison, Jr.: What's your name, sir?

Troy French: Troy French.

Joe Harrison, Jr.: Okay, and you live at the same address?

Troy French: Uh-huh.

Joe Harrison, Jr.: Okay.

Rachel French: Like I said, until this work happened we never had any flooding on our property, but since then it has been flooding every time it rains. It flooded, I think it was last week when it rained a lot, it flooded as well.

Troy French: Yeah, I think my major concern is the Grubbs are my great uncle and aunt, and they're in their upper 80's. They, you know, it's washing over the road there where it forks and goes to the Grubbs and goes up to Mr. Moore's property. That's where it backs up, and before it settles, it washes over and washes out Ray's driveway. Then it washes over on to our property and kind of sits there until...there's a natural ditch, he showed you the pictures of the culvert that runs under Ray's driveway.

President Melcher: Uh-huh.

Troy French: That natural ditch runs across the back of our property, and, of course, naturally all the water...north is all uphill from us.

Commissioner Abell: Could you come here? We've got Google Earth up and I'm trying to figure out where everybody lives. Now, this must be Burkett—

Rachel French: This is our home right here, 6901.

Commissioner Abell: This is you?

Troy French: No, no.

Rachel French: I'm sorry.

Commissioner Kiefer: This says 6920. Is this 6920? That's the address I put in.

Rachel French: Okay, this is ours actually right here, because here is Terri and Buddy's. This is 6901 here. This is where Greg and Terri live.

Commissioner Abell: Greg and Terri? Burkett, okay.

Rachel French: This is the "Y" that they're talking about right here.

Commissioner Kiefer: And where is the Moore's property?

Rachel French: This is the Moore's property here, and this is Ray and Betty's property as it comes up here. So, this is going north, and everything flows down here. There's a natural ditch right here along the lane that comes down our property, and the culvert is right along here, and the natural flow, the ditch here, or, I guess, it's almost like a little—

Troy French: Right, like I stated before, he only has a 16 foot, he doesn't have any property that touches the lane anywhere. That's Ray's property.

Commissioner Abell: He doesn't have (Inaudible) to the back of his lot?

Troy French: Right, all the work he's doing is not on his property. He's on 16 foot, but he's also about, I ran a tape over, he's about 27 foot over on to Ray's property where he's building, he keeps filling up, and nobody knows why he's doing it. He just keeps adding it on. Partly because he dumps up there.

Joe Harrison, Jr.: But, again, that's kind of another issue.

Commissioner Abell: Now, which house is his again?

Rachel French: Actually this is it, it's a trailer right here. This is a pole barn, and that's a trailer here.

Troy French: Right, this is Ray's property, this is our house, and this is the Burkett's.

Commissioner Abell: So, he's got this little patch of ground with no access?

Troy French: He has a rectangle right here, then Ray's property comes up and has a little "L" that comes back. This is our property. We have a rectangle right here that touches Ray's.

Commissioner Kiefer: He's just got an easement.

Troy French: All he has is a 16 foot easement.

Commissioner Kiefer: But, he's building over the top of that easement, I mean—

Troy French: Yeah, in that culvert pipe.

Commissioner Abell: And this is Burkett?

Rachel French: This is the Burkett's right here. This is their home and this is their barn.

Troy French: Yeah, and this is, the culvert pipe they're talking about is, there's, I think, I believe, Greg could tell you better, there's one up here, and there's one right here.

Commissioner Abell: Okay.

Troy French: This is all downhill. The lane goes downhill. So, all the water is going to run down here.

Commissioner Abell: And then it's getting stopped.

Troy French: It's backing up over here now.

Rachel French: Right, here is where it's flooding onto our property.

Troy French: Then, when it backs up bad enough, it runs over the lane, right at the "Y", and then flows down into the lane.

Commissioner Abell: This is your house?

Rachel French: No, this one.

Troy French: No, this one.

Commissioner Abell: This one?

Rachel French: It goes all the way up into (Inaudible) right here.

Commissioner Abell: Okay.

Joe Harrison, Jr.: Again, what you're saying is, is that part of the build up is not on his property?

Troy French: Right. Most of it's not on his property.

Joe Harrison, Jr.: Right.

President Melcher: I think somebody said, it never really flooded until he changed that pipe out.

Troy French: I've been there 22 years, and it's never flooded.

President Melcher: But, since he's moved the, changed the pipe, it has?

Troy French: Since he's done it, now every time we get a hard rain it backs up.

President Melcher: Okay.

Commissioner Abell: Okay, that helps me. Thank you.

Commissioner Kiefer: Appreciate it.

Commissioner Abell: It's hard to visualize where everybody lives.

Jeff Mueller: One thing I did want to clarify though, the pipe, the first pipe that they're talking about along the road is not on Mr. Moore's property. So, the petition was against Mr. Moore and on his property. So, we have two pipes, but we only investigated the one, because the other pipe is on—

Greg Burkett: The Grubbs.

Jeff Mueller: Yeah, the Grubbs property, right there by the county, by the end of Staubs Lane. So, I mean, so, what we investigated was the obstruction of drainage on Mr. Moore's property.

President Melcher: But, who put that pipe on the Grubbs' property?

Greg Burkett: Mr. Moore.

Joe Harrison, Jr.: But, they don't have a petition in front of us though.

President Melcher: No, but it's the same pipe, isn't it?

Jeff Mueller: Two different pipes.

Commissioner Abell: But, if you fix one and you don't fix the other, you really haven't fixed the problem.

Greg Burkett: We could fix one spot, but then there's another spot. The one that (Inaudible. Not at microphone.), that's the one that this 18 inch pipe (Inaudible. Not at microphone.)

Commissioner Abell: You have to fix both to really correct—

Greg Burkett: Well, I'm getting flooded on both sides. When I showed you the picture of (Inaudible. Not at microphone.), that's a hill. I'm being flooded on both sides. I mean, the one (Inaudible. Not at microphone.) I tried to drive into my field on the backside, in the corner by the tree—

Madelyn Grayson: Mr. Burkett, we won't be able to get your comments on the record unless you speak at the microphone.

Jeff Mueller: Yeah, go ahead.

Greg Burkett: I'm sorry. The other pipe, the one that's at the corner of the Grubbs', Staubs Lane and Mr. Moore's ingress/egress is a pipe that he put in when he put the other one in, and he buried that one too low. I just found out that that's because that's on the Grubbs' property. So, we may have to do another legal kind of thing there to do that. But, we need you guys to basically say, we see this issue, but you have to carry it on, because we're carrying it on. This is our last step before we're doing what we've got to do for our next step. So, that's why we're here, but I have to do something about him flooding my back property. I have horses, and if I can't get them on that field on that end, which I can't because it's a mud hole, that's why I put them on the north, in the fall, to kind of fatten them up a little bit on the grass, so I can feed them less hay. Well, if you have to buy more hay, it's cost me more money. Now, I've got a field that just grows grass and did nothing. It has an intended plan. He doesn't see it and didn't care. All he cares is that when he was down there and he was there, the roadway was alright, it was kind of low, when we had a heavy rain, it would fill it up, it would run over the driveway, it was done. No debris, no leftover, no rock. He moved in, he didn't like it and he started raising it. It started flooding. It's to the point now that when it gets up there it can stand this deep. I have flags down there of the Surveyor and they're this far from the pink, and they're this high up. It doesn't happen every time, but once it happens, you see what happens to my field, and it's weeds that come back to take over my grass land. How long does my grass land get ruined and my livestock, I've got to pay out more money in hay. I spent an extra \$200 this year, or \$2,000 this year to buy more hay to substitute what they had to be fed because we had a bad season, bad grass. Some of that is part of mine. One of them is that I've got 3/4 of an acre I can't even put them on to, because it's so soft, so soggy, and I've got a pipe in the ground that's this far down, that big around, that I can't put them into because they'll step in it.

President Melcher: Okay.

Greg Burkett: I mean, if we can't do the one about the one, then something has to be done about the other one, because that's the one I get all of the rain, because I come.....I didn't mean to interrupt you, but, I come, a long time ago I wanted to put a pipe in to access my back property with my mower easier, where I've got a pond and stuff and some woods. They said, no. You can make it low where you can drive through it, but you cannot do nothing over it because it's a natural waterway. So, I did the step I was supposed to. I went and checked with somebody and I called and asked, and this is what they advised me. So, I left it alone. He comes back, now it's mud and I can't drive through it. I've got nothing but ruts. I had to put boards down to drive over a spot so I can get my mower back there to mow.

President Melcher: Okay, but the other property that he did, that's going to have to be another petition or something?

Commissioner Kiefer: It sounds like it.

Greg Burkett: Yeah, so we need to get Grubbs in with that one.

President Melcher: We won't be able to address that one, because the petition states just what we're doing now.

Greg Burkett: Okay.

President Melcher: And, Jeff—

Greg Burkett: I just found that out. That's what I asked him and he told me that.

Joe Harrison, Jr.: Jeff, you might want to address that as well.

Greg Burkett: Since we do have a dispute with him anyway, if you do tell him somebody, we do not want him on our property, because he's been on it before and tore it up, and he's not very good at what he does. So, you know, I'll get out there and move the pipe, you know, off of my property before I want him on there, because I've already had that problem.

President Melcher: Okay.

Greg Burkett: Thank you.

President Melcher: Jeff, do you got anything to say before—

Jeff Mueller: No, I think, well, I was going to clarify, but I think we understand there's two pipes, but the one is, we're only dealing with the one. The one that's on the Moore's—

President Melcher: And this one is the bigger one?

Jeff Mueller: Yes, it's the one that has the bigger watershed area. The smaller pipe, the one out by the road though, is the one that's affecting....I'm sorry, is it the French's? That one's the one that going across the road, but it's more of a—

Joe Harrison, Jr.: And the Grubbs.

Jeff Mueller: And the Grubbs, yeah, but the petition is only against the Moore's and would only handle the one pipe.

President Melcher: Okay.

Joe Harrison, Jr.: I believe Mr. Moore has a representative here. Is that correct?

President Melcher: Okay.

Kurt Eckert: That's correct. My name is Kurt Eckert. I'm with the law offices of Trimble and Jewell. Mr. Moore asked me to come here today and kind of represent his interests and to relate to you what his thoughts and feelings are on this matter. I believe Mr. Moore's thoughts are that he understands that there is flooding there, that he is willing to help correct the issue. I think he wants to convey some background as far as what happened in this area. My understanding, from Mr. Moore, is that there was a tree that was damaged, and Mr. Moore, at the time, thought it was on his property. He went to go to take it down, Mr. Burkett came,

noticed that the tree was being taken care of by Mr. Moore. They had a discussion about it. Mr. Moore and Mr. Burkett agreed to take down the tree themselves, that Mr. Burkett was going to use the wood for firewood. In taking it down they removed the root ball out of the ground, which left a lot of, a big puddle, or a big hole in the ground where there would be a lot of water, and that Mr. Moore gave to Mr. Burkett the extension for the culvert so that the water could drain out of that area. Mr. Moore is willing to remove those areas that he, the extensions, and to comply with the recommendations of the Drainage Board, that it be no longer than 62 feet, etcetera. He is willing to remove those, recognizing that it has not drained as effectively as intended. He, the pipe that was there was 18 inches, it wasn't 24 inches. I believe it was the testimony from Mr. Mueller that he, that it drained effectively, and that it would have drained effectively at 18 inches. That if it was 24 inches it would have been no flow at all, there would have been no need for Mr. Moore to have raised his bed. I think the circumstantial evidence is that it was an 18 inch culvert. Mr. Moore's testimony is that he didn't take out the existing culvert, all he did was extend it. He's willing to undo his extensions, and to return it back to the state that it was. I know Mr. Burkett wants to not have Mr. Moore on his property. Mr. Moore is capable of removing the pipes that's there. He doesn't want to have Mr. Burkett do it. He is willing to do it himself. Since it is Mr. Burkett's property, if he's concerned about the remediation of the property, Mr. Moore suggests that Mr. Burkett remediates his portion of the property then, at that point, especially since Mr. Burkett, as he testified, has a lot of trees there, they have a lot of undergrowth, a lot of branches on the ground. He wants to keep it in a natural state, that's part of the problem. Mr. Moore believes that that is also contributing the water flow that's in the area, that Mr. Burkett needs to keep that clean, and to get up the wood that is helping to have the water standing in that area of the ground. So, but, as far as the recommendations of Mr. Mueller, Mr. Moore doesn't have any complaints about doing that. He's willing to remove the extensions that he put on there, and to comply with those recommendations. I have nothing further. Do you have any questions?

President Melcher: Do you have any questions?

Commissioner Abell: I have a question.

President Melcher: Go ahead.

Kurt Eckert: Yes, Ma'am?

Commissioner Abell: Mr. Moore is willing to do the work, but he, and he wants to do the work, but he doesn't want Mr. Burkett to do the work on Mr. Burkett's own property, is that correct?

Kurt Eckert: Mr. Moore put the pipes in the way they are, at the time, it was a three or four day affair where they were taking down that tree, and Mr. Burkett said that there was going to be an issue with drainage at that point, because there was going to be a big hole where that tree's root ball was. So, he put that in, with Mr. Burkett, to help do drainage from that area. So, his position is that, you know, he put it in as a favor to Mr. Burkett at the time. They've had a falling out since the property got sold to Mr. Moore, instead of to Mr. Burkett, and since there's been that falling out this has come up. He's willing to rectify the situation. He just doesn't want, unless Mr. Burkett is willing to do so voluntarily, without trying to charge my client, you know, he would prefer to go ahead and do it on his own accord, rather than have a big bill, considering this is coming out of a misunderstanding from my client's perspective.

Commissioner Abell: Is Mr. Moore a licensed contractor?

Kurt Eckert: I believe he is.

Commissioner Abell: He is a licensed contractor?

Kurt Eckert: I believe he is.

Commissioner Abell: What type contractor is he?

Kurt Eckert: I know he does ground work, but I'm not exactly sure what he does.

Commissioner Abell: Mr. Mueller, are you, do you have any knowledge of Mr. Moore as—

Jeff Mueller: No, the only thing he told me was he was a retired fireman. So, I don't know what he's been doing since he has retired from the Fire Department.

Kurt Eckert: But, I don't think it's going to be a major, I mean, I don't think it's going to be difficult for either part to remove that culvert out of the ground.

Commissioner Kiefer: Well, it seems obvious that Mr. Moore didn't appropriately, or do it properly, because otherwise, you know, it wouldn't be the situation that it is today.

Kurt Eckert: I think at that particular point in time it was Mr. Burkett and Mr. Moore had a discussion about what to do about the drainage from where that tree was taken down. So, that was the decision that they made at that point in time to do that. I don't, again, Mr. Moore put the culvert in with Mr. Burkett. He is willing to take it out again. He does have the equipment to do so on his property. So, he can safely and easily take out that portion of the culvert that's on the Burkett's property, and, at minimal disruption to the Burkett's property. If you notice from where the location of the culvert is and the property line, I believe he testified it was ten feet?

Jeff Mueller: Ten feet, well, it depends on the property line (Inaudible. Not at microphone.)

Kurt Eckert: There's a discrepancy as to where the property line actually is. But, it's not going to be something where it's going to be a great intrusion. It is an empty field. There's no risk of any damage, property damage to Mr. Burkett's property.

Commissioner Kiefer: Does Mr. Moore have written documentation of their agreements and stuff? Or is that all just verbal?

Kurt Eckert: This was two neighbors setting out...I asked Mr. Moore if he had any witnesses to the conversations or anything that happened. He stated, no, it was just two neighbors out trying to help each other at that point in time. So, I know there's animosity between the parties at this point, but not at the time that this took place. So, I'm sure Mr. Burkett does not agree with what I'm saying.

Greg Burkett: No.

Kurt Eckert: But, this is what has been represented to me. I know Mr. Moore. I don't have any doubt of Mr. Moore's representation. So, I wouldn't be here if I thought he was saying something different.

Commissioner Abell: I just have a hard time with, I mean, I agree with the recommendations of our County Surveyor. I have a hard time with saying that if this is going to be remedied, they're going to have to let Mr. Moore on their property. You know, I don't hire anybody to work on my house unless they're licensed and got an insurance policy and are bonded and everything else. I wouldn't want my neighbor coming over on my property and doing something and fall off his truck and end up suing me because he was on my property. You know, I just feel like this is something that it's time to hire a licensed contractor to get in there and do the work.

Kurt Eckert: I understand your feelings about that. I think Mr. Moore is capable of taking it out. I believe he is capable of taking it out and doing the work himself. If the Burkett's want to take care of the remediation of the property, that's, you know, if they have a concern about having it be a certain way, then, you know, that would be up to them.

Commissioner Kiefer: I think we need to have a third party contractor who's licensed bonded who can do this work, because, obviously, Mr. Moore has some vested interest here, and for him to just go do it when the respondent doesn't, I mean, not the respondent, but the petitioner doesn't want him on the property, I just think it makes more sense for him to have a licensed contractor who's a third party who's not connected.

Kurt Eckert: The concern is that Mr. Moore put this on with the Burkett's permission as part of a joint enterprise.

President Melcher: Right now, I think we're going to say it's going to be a....so we don't have to talk too much more.

Commissioner Kiefer: Yeah.

President Melcher: It's going to be a licensed contractor.

Commissioner Kiefer: And because the Surveyor--

President Melcher: That's what the Surveyor has recommended.

Commissioner Kiefer: Yeah, I'm going with the Surveyor.

President Melcher: Even though he can do it, it's going to appease everybody, he don't have to step on their property, they don't have to step on his property, and we want....I don't know how it's going to vote, but we would want it to be drawn up, have a plan, we will see the plan. Because even though he can do it, it's not going to get done satisfactorily. We'll be in and out of here all the time. I'm not going to hear this for two years. So, if it's done by a contractor, that's a person completely out of the loop. I'm not convinced that the 18 inch pipe is going to help.

Kurt Eckert: Mr. Mueller has studied the issue, said it should work at 18 inches. The only thing, if, I'm assuming, based on what you're saying that the contractor is going to be paid for by my client's expense?

President Melcher: Well, he's the one that did it.

Commissioner Kiefer: He's the one that created it.

Kurt Eckert: I know, let me finish what I'm going to say. The only caveat that I would like is that it would be a contractor that's a licensed contractor of my client's choosing. If he's got to pay it, if he's got to foot the bill, he should be able to choose the guy that they pay (Inaudible).

President Melcher: As long as they have a license here in Vanderburgh County—

Kurt Eckert: That's right.

President Melcher: — and they know what they're doing.

Commissioner Kiefer: And he's working in conjunction with the Surveyor.

Commissioner Abell: (Inaudible), you wouldn't have a problem with that if it's a licensed contractor.

Greg Burkett: (Inaudible. Not at microphone.) He does this stuff when I'm at work. I come home after work and he was pulling the tree out of the ground. (Inaudible. Not at microphone.) my 24 year old son—

Commissioner Abell: You're going to have to come to the microphone, but—

Commissioner Kiefer: I understand—

Greg Burkett: I'm not doubting anything that—

Commissioner Abell: I know you have these issues, but those are your issues that you all are going to have work out somewhere.

Greg Burkett: Right, but he said that I—

Commissioner Abell: We're the Drainage Board, we're not the neighborhood association.

Greg Burkett: I agree with what you guys are saying. Whatever he does to make it stop flooding, I'm okay with.

Commissioner Abell: Well, I think what we would want to see is a contractor go in there and make a recommendation to our County Surveyor as to what needs to be done—

Greg Burkett: Well, we've already had one—

Commissioner Abell: — how he would do it and how much he would charge to do it.

Greg Burkett: Well, we had Kraft Nursery come out and make an estimate for us. We've already got that with our lawyer, because that's what they come up and told us that we needed to come see the Drainage Board because they needed a recommendation from you guys because this pipe is on our side. We didn't want it, never did want it, never have wanted it.

Commissioner Kiefer: Well, I think if he's going to pay for it and it's a contractor that can do the work that's satisfactory to the Surveyor—

Greg Burkett: As long as, I mean, I work for an equipment company, so, I've worked with a lot of contractors—

Commissioner Kiefer: Yeah.

Greg Burkett: — so, as long as I can talk with one of mine, once we find out who it is, and they say, yeah, these are good guys, don't worry about it, I'm okay.

Commissioner Kiefer: Yeah.

Commissioner Abell: Okay.

Commissioner Kiefer: That sounds reasonable.

President Melcher: Well, and you, don't he have to sign some permission slip for them to get on his property?

Commissioner Kiefer: Right.

Joe Harrison, Jr.: Yeah, you'll have to—

President Melcher: So, you're going to have to sign off before they get on your property anyway.

Greg Burkett: Right, that's what I'm saying.

President Melcher: If you don't sign off—

Greg Burkett: Well, they could probably do most of it off of my side anyway.

President Melcher: If you don't sign it, they won't be able to get on your property.

Greg Burkett: Right, right. That's why I say as long as I'm okay with being allowed to make sure that who he's picked is, not just to be somebody that's going to charge him a bunch of money, but that is going to do a good job. That's what I want.

Joe Harrison, Jr.: Well, the County Surveyor would obviously see whoever it is and be a middleman.

Greg Burkett: Okay, that's all I want to make sure because of what's happened before with the past.

Joe Harrison, Jr.: I understand, but it's not going to be Mr. Moore doing the work.

Greg Burkett: Okay, that's what I'm saying. I understand that. I just want to make sure that, you know, I don't want to have to be, like you guys, come back and do this again. So, thank you.

Commissioner Kiefer: So, do we need to make a motion?

Joe Harrison, Jr.: Well, anything else that you want to—

Kurt Eckert: I just have an alternative proposal just to put forth. I don't know if you guys are going to agree with it, shoot it down, or what not.

Commissioner Abell: Sure.

Kurt Eckert: We got, you say there's 13 feet over onto the Burkett's property, which means there's quite a bit of drainage pipe that's on Mr. Moore's property, which would provide plenty of room for the water to drain around. This is an underground culvert. Is there anyway possible to possibly sever the pipe without having to remove the pipe that's on the Burkett's property and allow the water to still drain through the culvert?

Commissioner Abell: I don't know.

President Melcher: That wasn't our Surveyor's recommendation.

Kurt Eckert: I'm just throwing it out there to see what, if that would be possible and still be able to get the drainage pipe that's underground, underground.

President Melcher: My way of thinking, I would say no, because, obviously, when he came on the property and did the work, and if we go ahead and say that and we're allowing something that should maybe be taken up. There's always, if flooding continues, there's going to be questions later, you know, about it. I don't know if it would be right for us to come back and tell Mr. Moore he's got to do it now.

Kurt Eckert: Well, if it's sufficiently far enough back from the property line where there's still plenty of water flow to the culvert and it's not an impediment to the water flow, then that may be a way to resolve it without having anybody go on Mr. Burkett's property at all.

President Melcher: Well, I'm not going to vote for anything that doesn't mean they're going to take care of the other person's property.

Jeff Mueller: My concern, and the reason for my suggestion in taking it 20 feet off the property line was that, if you can envision a valley of, you know, a valley and a pipe, you know, when that pipe is starting to run full, it's going to kind of run back. Well, if that pipe is 20 feet off the property line, and the water is kind of going down the ditch, but if it kind of kicks out of the ditch, it's going to kick out of the ditch and it's going to pond on Mr. Moore's property, and then it's going to run back into the ditch on Mr. Moore's property, that's where it's going to do most of it's ponding. That's why I wanted it away from the property line. That's what I saw when I was out there, the problem was not only just when the ditch wasn't flowing, but that what I want to call the flood plain, for lack of a better word, the water just wasn't getting in to that ditch. So, if it goes this way on to Mr. Moore's property, then it will eventually get in the ditch, and hopefully that way it will dry out the Burkett's property. That's why I said, not only chop it off at the line, but get it about 20 feet away from the line so that it has that opportunity to flow in and not be standing. The only other thing that I want to clarify is, the numbers, like I said before, I can't, without just going out there and digging a pipe and looking at a date, I can't tell you for sure whether a 24 inch was in there or an 18 inch. If a 24 inch was in there and running right, it shouldn't have been overflowing the road, but that's not to say that it was running right. So, all I can say, that was my point was that an 18 inch is going to operate, is going to carry 12 cfs, is what it's going to do, which will carry most of the one year storms and, you know, up to almost a two year storm. Well, a one year storm, but when you get

regular floods it's going to hold back for a little bit, but if it's open, it shouldn't be holding back. It shouldn't be a situation where I come out there after it's rained two days later and you can still see standing water on their property. That shouldn't be the case. I know that's what you're after right now. So, that's the reason for the basis of my suggestions and my comments.

President Melcher: Okay.

Kurt Eckert: May I ask another question?

President Melcher: Yes.

Kurt Eckert: If they put, if they did the pipe opening, culvert opening 20 foot back from the property line, and, of course, that allows for some ponding if necessary for heavy flows, if they didn't remove the pipe that was on the Burkett's property and left it underground, would it still flow correctly at that point and move the water?

Jeff Mueller: You're putting a pinch point in. You're still putting a pinch point in. I would not recommend that. Like I said, and the other thing is, and I think where the Burkett's are coming from too, is that when you pull the pipe and clean that up and see that, that, you know, we can solve that debris problem, because that's the other issue. Get that side slope, get that area that's been affected seeded, and let's get that stabilized.

Commissioner Finding/Orders/Motions:

President Melcher: We're moving on here. Joe, do you want to kind of, I'm sorry, Mr. Harrison, would you want to kind of talk about how this is going to happen before we make the motion?

Joe Harrison, Jr.: Okay, I think, under the law, there's a couple of things you have to do first. Why don't we just do the housekeeping part of it.

President Melcher: That's where I was going.

Joe Harrison, Jr.: First of all, if the Board so desires, there would need to be a finding of a drainage obstruction on the Burkett's property.

President Melcher: So, that's one motion?

Joe Harrison, Jr.: And the removal of the obstruction will promote better drainage on the Burkett's property, and removal of the obstruction will not cause unreasonable damage to the Moore property. So, if there's a motion to that effect, that would take care of the first thing.

Commissioner Kiefer: I'll make that a motion.

Commissioner Abell: Second.

President Melcher: Any discussion? Roll call vote.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Then, the next step would be a finding by the Board that the obstruction on the Burkett property was intentionally caused by Mr. Moore.

Commissioner Kiefer: It appears to me that it was intentional, because they put in an 18 inch drain, they covered it up, they built up the driveway, you know, just, I mean, he may not have had knowledge, he may not have been smart enough to know what was going to happen, but the work was done intentionally, in my opinion. I'll make a motion that says that it was intentional.

Commissioner Abell: I'll second.

President Melcher: Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: The next motion would be along the lines that the Drainage Board has been given some recommendations by the County Surveyor as to how to remedy the obstruction. It's set forth on page five of the report. It would be the, and, Mr. Mueller, you may want to comment on this, but the recommendations by the Surveyor are that Mr. Moore, at a minimum, remove the modified drop structure and the last eight to nine feet (8' to 9') of pipe on the south outlet of the culvert, resulting in a straight pipe structure. So, that would be a recommendation. Is there a motion to that effect?

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Discussion? Roll call vote.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Now, I'll talk about a contractor at the end.

President Melcher: Okay.

Joe Harrison, Jr.: That Mr. Moore be granted a temporary construction easement by the Burkett's allowing the work to be performed on the Burkett's property, as recommended by the County Surveyor.

Commissioner Kiefer: Is that with a certified, or is that with a licensed contractor?

Joe Harrison, Jr.: I'll address that at the end. Is that okay?

Commissioner Kiefer: Oh, okay. Motion to approve. I mean, a motion to approve as stated by the attorney.

Commissioner Abell: Second.

President Melcher: Any other discussion? Go ahead and call the roll.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: That Mr. Moore be required to remove a portion of the inlet pipe on the Burkett's property, plus additional pipe, so that the inlet of the pipe is of a sufficient length off of the common property line, approximately 20 feet, and the channel be sufficiently restored so that water from the adjacent area to the channel will drain into the channel. The total length of the remaining 18 inch culvert shall be of a length to allow up to a sufficient roadway and, what is that, four to one (4:1) side slopes so that Mr. Moore's culvert is no longer than a total length of 62 feet. Is that your recommendation?

Jeff Mueller: Yes, so that, yes, because I don't, I think if the pipe is open and running straight, I don't think the build up of the road is going to be an issue, but you've got to have that pipe straight, and you've got to have it running, and you've got to have it debris free.

Commissioner Kiefer: Okay, in that case I'll make the motion as stated in the Surveyor's recommendation and repeated there by the attorney, Joe Harrison.

Commissioner Abell: Second.

President Melcher: Any discussion? Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Next, that Mr. Moore not add any additional fill height to the existing roadway, and that the elevation of this cover be limited to a, what is that, a four foot of cover?

Jeff Mueller: Yes.

Joe Harrison, Jr.: Over the existing culvert. Is there a motion to that effect?

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

Commissioner Abell: Second.

President Melcher: Okay, I've got a question. On that, would that take it back to the level it was before the roadway? Because it looks like he's been adding all along.

Jeff Mueller: It will be higher. I guess, my opinion, Mr. Melcher, is that if the pipe is running properly, that it should, although there would be a back up for a short time, it shouldn't be anything significant. I mean, the other issue would be to tell him to lower, take the cover completely off, but, I can't see, if the pipe is running correctly, I can't see where that's a problem. The problem is if the pipe's not running correctly, then the water will overflow the road, and it will flow through there quicker. So, it's kind of, I guess, you can kind of say I kind of came at a, I did not see where that four foot of cover, by itself, was causing an obstruction. It was more the pipe, the way the pipe was laid, and the fact that the pipe was not operating correctly. That was more my opinion than that the cover was an issue. It was the pipe that was the problem.

Commissioner Kiefer: So, if we do all of this work, if they do all of this work, according to your recommendation, and then we find out later that that four foot of cover is causing a problem, then who's got to take care of it at that point? Is it going to be us because it was our recommendation as the county?

Jeff Mueller: I don't know that answer, but, I mean, if we wanted to play it safe, we could tell him to reduce the cover down to, we probably should allow him to have at least two feet of cover over that 18 inch pipe, two to two and a half feet of cover.

President Melcher: That would be my recommendation.

Commissioner Kiefer: I would rather play it safe. So, I'm going to amend my motion to, instead of four feet of cover, to two and half feet of cover.

President Melcher: Is that what you just said?

Jeff Mueller: Yes, two and a half. I think that would be about the right amount on an 18 inch.

President Melcher: Okay, you know it and I don't.

Commissioner Abell: I'll amend my second.

President Melcher: Okay, so you've got both amendments. Okay, any other questions? Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Then, again, a motion to the effect that the, that all affected areas, including the restored channel and the side slopes of Mr. Moore's roadway be sufficiently seeded and mulched to provide a reasonable ground cover that will prevent future erosion and the reduction of unwanted debris. Seed mixtures will include grasses, I don't even know that word, I'm sorry.

Jeff Mueller: Legumes.

Joe Harrison, Jr.: Legumes, I'm sorry, and/or other seed appropriate to the site, and this is to be accomplished, the seeding and all of that, to be accomplished no later than September 15, 2013. Is there a motion to that effect?

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Any questions? Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: And that both parties work to keep the channel free of debris, so that the culvert will perform to its maximum efficiency of approximately 12 cfs. Is there a motion to that effect?

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Discussion? Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: One more thing, finally, that Mr. Moore be required to perform the work to be done, as ordered by the Drainage Board above, the six or seven items that we just mentioned, that all work be performed by a licensed contractor here in Vanderburgh County, and that the, that Mr. Moore be responsible for the payment of the services for that licensed contractor, and that such plan for the licensed contractor to do the work be submitted to the County Surveyor for his review, and will be also available for review by the Burkett's so they can review the same before approval by the County Surveyor. The County Surveyor will be given final approval to approve the plan that is submitted by a licensed contractor to perform the work here under.

Commissioner Kiefer: I will definitely make that motion, and I think that's a good idea.

Commissioner Abell: Second.

President Melcher: Discussion? Roll call.

Jeff Mueller: Wait, I'm sorry, should we put a deadline on that?

Joe Harrison, Jr.: Well, yes, and September 15th was the seeding, when, why don't we go ahead and approve this, then we can have one more motion.

Jeff Mueller: Okay.

President Melcher: Might as well, we've got eight now.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: Now, do you see why I got you involved early?

Joe Harrison, Jr.: Yeah, thank you. I thought we would be out of here 45 minutes ago.

President Melcher: I knew you were going to do that, so, that's why I went there. Now, this last motion is the time?

Joe Harrison, Jr.: And, again, I don't know if Mr. Mueller wants to comment on a reasonable period of time on this, and the Burkett's.

Commissioner Kiefer: Can we make a motion that it be performed by the time to be set by the County Surveyor? Do we have to actually have that date tonight?

President Melcher: Well, don't we have a September date now?

Jeff Mueller: I would like to see him come in with a plan to me so that I can approve it, so we're not, you know, doing it September 1st. I guess that's what I'm saying.

Joe Harrison, Jr.: Okay, why don't we do this. That the contractor plan, I'm throwing this out, that the contractor plan be submitted to you within the next 20 days.

Kurt Eckert: Can we have a little bit more time? I don't know how long it's going to take.

Joe Harrison, Jr.: Okay, we'll say 30.

Kurt Eckert: Okay.

President Melcher: Then, how many days to complete?

Joe Harrison, Jr.: And, I think the work ought to be done by September 15th. Just have it all done by then.

Greg Burkett: I've got to get my horses on that property. So, I've got to be able to fence it.

Joe Harrison, Jr.: Well, you tell me, is September 15th too long, too short?

Greg Burkett: August 2nd, my birthday?

Joe Harrison, Jr.: Well, I mean, if he's going to have 30 days to submit a plan—

Greg Burkett: Well, I just want to make sure something is going to be, like what you said, is this when the grass would be growing by then? I mean, I don't know.

Commissioner Kiefer: It was seeded by September 15th. So, he's got to have the work done prior to the seeding.

Jeff Mueller: The idea is that if it's past September 15th, it's not going to do well over the winter.

Joe Harrison, Jr.: Well, why don't we do this, why don't we start—

Greg Burkett: That's what I was asking.

Jeff Mueller: Yeah, that's what is required.

Greg Burkett: I want to make sure that the snow and stuff we get, since the (Inaudible. Not at microphone.) and mess everything up, then both of us are at fault.

Jeff Mueller: Normally, and I'm not only going by county standards, but I'm even going back to my coal mining days, we always tried to seed between August 15th and September 15th, because anything before August 15th and you had a chance of the seed not taking or anything. You wanted to get it in the ground by September 15th so that you got enough growth before winter came that it would hold, you know.

Commissioner Kiefer: How about the work to be performed and be completed so that the seeding can be done by September 15th.

Jeff Mueller: I think, yeah, that's what we're saying, yeah.

Commissioner Kiefer: Would that be okay in a motion?

President Melcher: But, he's got 30 days to get the plan in.

Joe Harrison, Jr.: He's got 30 days to get the plan submitted, and he's going to have to have all work; seeding, pipe removal, everything by September 15th.

Commissioner Kiefer: Okay, so, that's the motion then that I'm making that the plan is submitted in 30 days and all work has to be completed, with seeding being the last thing, done by September 15th. That's my motion.

President Melcher: Do I have a second?

Commissioner Abell: Second.

President Melcher: Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Commissioner Kiefer: What else do we have tonight?

Ditch Maintenance Claims

Jeff Mueller: Just a couple quick things.

President Melcher: You'd better make them quick.

Jeff Mueller: Okay. I have four ditch claims.

President Melcher: Four ditch claims?

Jeff Mueller: Yes.

President Melcher: I need a motion to approve the ditch claims.

Commissioner Kiefer: I make a motion that we approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

French Drains in Drainage Easements
--

Jeff Mueller: The only other thing I have, and I just talked to Mr. Harrison about this, we've been getting a number of people, especially with the wet spring, that have been concerned about how, you know, they're in a nice subdivision, they've got the drainage swales in their backyard, but they're still staying wet and everybody wants to put a French drain in. I talked to Mr. Harrison, and what I would like to do is put together a standard form letter, with a standard checklist which someone could request an approval for a drainage plan revision where they could put a French drain in, the swale wouldn't be changed, it would still be like this, they would just be putting in a pipe underneath to dry that out, but they would have to meet certain criteria. They would still request it before the Drainage Board, but we would make it a simple process for people to come in and do this, you know, they would follow the letter, they would have a little check mark to do things. If they did it, we would come before the Board and request the approval. Hopefully, this would solve some people, you know, that are moving into nice subdivisions that have got wet spots in their backyard, but yet aren't out there tearing our drainage easements up and putting pipes in where they're not supposed to.

Commissioner Kiefer: So, do we need—

Joe Harrison, Jr.: I think, if you could make a motion to that effect, to allow him to have that procedure, that would be helpful.

Commissioner Kiefer: Okay, I'll make that motion then.

Commissioner Abell: I'll second it, but I have a question.

Jeff Mueller: Yes?

President Melcher: Go ahead.

Commissioner Abell: What are we going to do if this gets out of hand? I mean, you know, I can just envision, you know, somebody putting in a French drain and now their neighbor doesn't have one and they've got water (Inaudible).

Jeff Mueller: I think the problem it's already getting out of hand, and it's getting out of hand the wrong way, because people are filling in easements. So, what I would like to do is try to get in hand, and plus make it so that people that are trying to do the right thing we have a vehicle for them to do it. I mean, I'm going to have a checklist for them that, you know, you can't just go out and say can I put a French drain in and we say yes. If they're going to connect we want to see permissions, we want to see that, I'm going to work with a whole checklist. I've talked to Mr. Stoll about it, I'm going to run it by him. Then we'll guinea pig it with one person, the first one say, here's how you do it, and we'll bring it before you all to look at. I'm scared if we don't do it, it's going to happen anyway. I would like to control it, I guess is what I'm saying. That's my dream world.

Commissioner Abell: Maybe we talk to London at Area Plan Commission about seeing when these subdivisions go in that we address these things up front instead of later.

Jeff Mueller: What I would like to do, in my wish list of the drainage code, is to allow that to be constructed into future ones. That's my longer term goal, but I've had I don't know how many calls this spring, I think it's just because it's so wet, everybody is scared of mosquitos and everything else. Everybody wants to be able to cut their grass in the wet spots. So, I'm trying to figure out how to meet those people, but, yes, I agree, we need to change the code to address it.

President Melcher: Okay. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Anything else?

Jeff Mueller: Thank you very much.

President Melcher: We stand adjourned.

Those in Attendance:

Stephen Melcher	Joe Kiefer
Jeff Mueller	Joe Harrison, Jr.
Greg Burkett	Terri Burkett
Rachel French	Kurt Eckert
Others Unidentified	Members of Media

Marsha Abell
Madelyn Grayson
Troy French
Jim Morley, Jr.

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
JULY 9, 2013**

The Vanderburgh County Drainage Board met in session this 9th day of July, 2013 at 5:31 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Is everybody ready?

Pledge of Allegiance

President Melcher: If we could all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the June 18, 2013 Drainage Board Meeting Minutes

President Melcher: Okay, we need a motion for approval of the minutes of the last meeting.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay.

Final Drainage Plan Approval: Sky Cylinder Parking

President Melcher: The final drainage plan approval for Sky Cylinder parking.

Jeff Mueller: Yes, this is a pretty simple drainage plan. It's for lot two of the Lee Subdivision out off St. Joe. Actually, it was submitted early in the year and it was kind of on delay, because at your last meeting you had the easement, the utility easement that had to be vacated through there. Now that that's been done we can approve the drainage plan. I recommend we approve the drainage plan.

President Melcher: Any questions? Any questions from anybody? I would entertain a motion.

Commissioner Kiefer: I make a motion to approve.

Commissioner Abell: Second.

President Melcher: Okay, thank you. Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

<p>The Promenade: Section I: Crawford Brandeis Ditch Relaxation of Maintenance Right-of-Entry</p>
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President Melcher: Next we have the Promenade, Section One, Crawford Brandeis Ditch relaxation maintenance right-of-entry crossing of piping with roadway. Now you can explain all of that.

Jeff Mueller: Yes. You have before you a letter from Bernardin Lochmueller, and Mr. Farney is here, I believe, yes, to approach you. The Promenade, Section One is a small, minor subdivision off of Burkhardt Road. It would be just north of where Old National Bank is. Even though that's in the city, we have, we still have the Crawford Brandeis legal drain that runs in front of that. So, what they're here for tonight, a couple of things, one is they're going to be building a road across the pipe, and even though it's a pipe we still need to give a formal approval for that. The second is that they are requesting, as you are aware, you know, on a ditch we have the 75 foot right-of-way for maintenance. They are requesting a relaxation of that right-of-way. I'll let Mr. Farney speak on that, and then I would like to give my comments on it before, if you don't mind, before you move with that.

President Melcher: Okay.

Jeff Mueller: So, Mr. Farney has some comments.

Jim Farney: Hi, my name is Jim Farney. I'm with Bernardin Lochmueller. What we would like to do, let me give you something here real quickly.

President Melcher: Do you got an extra one? That way we've got one for the record. Thank you.

Jim Farney: Okay, first I want to talk about the small drawing I gave you. What this drawing represents is the plat that was recorded for the Old National Bank parcel, which as Jeff mentioned, is directly south of our proposed development. At that time, what was requested and approved was the relaxation of the drainage easement to 30 foot. If you see the top piece that I have highlighted in yellow, it says 30 foot required per Vanderburgh County Surveyor. So, what they did there is they went out and measured where the box, the edge of the box was, and measured from there 30 foot. As you know, the legal statute calls originally for there to be 75 foot from the top of a bank of a ditch out for maintenance. So, they got the 75 basically relaxed to 30. You can also see that that ten foot green space that they've got shown in front

of the lot says that because it's encumbered by the 30 foot, it will not have any buildings, parking lots or anything other than green space in that space. So, what we would like to do, which is now on the big drawing, is basically ask for exactly the same thing. We would like the drainage easement to be reduced or relaxed to 30 foot. You can see, if you see on our drawing, if you see the red line, it falls within that same ten foot green space that they also promised not to do, but leave anything green and we would do the same. So, we're basically just asking for the same thing that was granted for Old National Bank. We would like to carry that same request all the way up to the north line of the entire Promenade project, which goes up to Oak Grove Road. So, it would extend, our permission that we're asking for would extend from the north line of the Old National Bank parcel up to Oak Grove Road.

President Melcher: Any questions? Joe?

Commissioner Kiefer: Yeah, Jim, just so I understand this correctly. It looks like your first set of right-of-way is 50 feet, and then there's another set at 60 feet. Where would the line be at if we weren't relaxing it? I mean—

Madelyn Grayson: Jim, will you make sure you get your comments on the record.

Commissioner Abell: Here, Jim, you can use my mic.

Madelyn Grayson: You can use this cordless one if you like.

Commissioner Abell: Does that work?

Madelyn Grayson: Yes.

Jim Farney: By statute the measurement starts at the edge of the top of the bank of a ditch, but since you enclosed the ditch or encapsulated the ditch, the measurement would start from the edge of the box culvert.

Commissioner Kiefer: Okay.

Jim Farney: These double sets of lines here represent the box culverts, because there's two box culverts that are set side by side, okay. So, this drawing is at a scale of one to sixty, so the 30 foot basically, if you can see it on there, is where that red line is. Okay, 75 foot would put the line back there.

Commissioner Kiefer: And that easement is strictly for mowing and ditch cleaning? If it was an open ditch--

Jim Farney: If it's an open ditch they start out with a statute for 75 foot, because the idea is, periodically you would dredge the ditch and that gives enough room for the backhoe to pull the material out of the ditch, plus swing it around and deposit it behind the track hoe. When you urbanize these ditches and you begin to pipe them, then you're not going to do that operation anymore. So, the main thing now would be to have enough room that if you had an issue with a box culvert that you could repair the box culvert, dig it up and repair it.

Commissioner Kiefer: I guess, 30 feet is enough then, to do that?

Jim Farney: Yeah, 30 foot should be plenty, because you've also got the width on top of the boxes, plus you've got a road on the other side with more grass between

the box culvert and the road. So, from the edge of Burkhardt Road, including our 30 foot, you would have about 58 feet total width to work on that box culvert if you needed to. Okay, the other thing, I think, Jeff failed to mention is we also want to request a connection to the box culvert. I don't think you mentioned that, Jeff.

Jeff Mueller: Yeah, okay, yeah, just to follow up on this, I guess, I know when I had gotten something from Jim earlier you had originally talked about going to the right-of-way line. So, now you're about ten feet outside of the right-of-way line, correct?

Jim Farney: Yeah.

Jeff Mueller: Okay, and that follows pretty much what's been done in the past. Not only Old National Bank, but the Glass, I think it's called the Glass Subdivision, which is essentially the area in front of Sam's, which is where you've got IHOP and Jimmy John's and all of that right in there. That's been relaxed to ten feet outside, the right-of-way and another ten feet. So, it's roughly, again, about 30 feet. I personally don't have a problem with the 30 feet. If they were going to go to the right-of-way and 20 feet I was going to say something, but with the extra ten feet they're talking about, I don't have a problem with that personally.

President Melcher: So, your recommendation is it's okay?

Jeff Mueller: My recommendation would be go ahead and relax it to, Jim, would you have a problem if we said we would relax it to ten feet outside of the right-of-way? Because we don't really know exactly where the pipe is. Sometimes I get, it might be nine feet, it might be ten, but if we did ten, then we know where it all is.

Jim Farney: Yeah, I think that's fine. We're talking a matter of like two feet from where I'm saying the 30 foot line is. So, it's going to be more like 32 foot, but we're fine with that. If you want to call it out as the east line of the ten foot setback, that's fine with us.

Commissioner Kiefer: Okay, I'll make a motion to approve as stipulated by the County Surveyor that it's ten feet outside of—

Jeff Mueller: The right-of-way—

Commissioner Kiefer: — the right-of-way.

Jeff Mueller: — of Burkhardt Road.

Commissioner Kiefer: That it's relaxed to ten feet outside of the right-of-way, as opposed to 75 feet that's the current standard.

Commissioner Abell: I'll second.

President Melcher: Okay, I have a first and a second. Any further discussion? Anybody in the audience?

Joe Harrison, Jr.: Let me ask one thing, now, is this for this section one primary plat only?

Commissioner Kiefer: No, it goes all the way to Oak Grove.

Jim Farney: We would like to go ahead and ask for it to go all the way up to Oak Grove Road.

Joe Harrison, Jr.: Okay, so, you're saying from—

Jim Farney: The north line of Old National Bank property, which is the south line of our development's property.

Joe Harrison, Jr.: All the way to Oak Grove?

Jim Farney: All the way up to Oak Grove Road.

Joe Harrison, Jr.: Okay, I just wanted to clarify.

Commissioner Kiefer: I'll clarify the motion, that it does go all the way to Oak Grove then.

President Melcher: Okay. Alrighty, with that we'll need a roll call vote.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Jeff Mueller: Okay, do you want to go ahead and make your other request?

Jim Farney: Yes.

Jeff Mueller: Do the road crossing next.

Jim Farney: The next request, I guess, I have is the permission we would like to have to construct Waterford Boulevard across the legal drain easement.

Commissioner Abell: Could you say that again please?

President Melcher: Yeah, I was going to say, you'll have to explain that one.

Jim Farney: Okay, yeah, okay, I need to go back to the map here.

Commissioner Abell: The little map or the big one?

Jim Farney: The big one.

President Melcher: I just gave mine away.

Madelyn Grayson: You can either use Marsha's microphone or this one.

Jim Farney: This is fine. This is Waterford Boulevard. This is Burkhardt Road. (Inaudible) is this way. One of the roads that go into our project is Waterford Boulevard, which is an extension of Waterford Boulevard on the west side. So, because you, this is a legal drain, I believe that we need to ask for your permission to build this intersection here and build this road into the project across this legal drain.

Commissioner Abell: Oh, the legal drain that's covered?

Jim Farney: Yes.

Jeff Mueller: Yeah.

Jim Farney: With the box culverts, yes.

Jeff Mueller: I mean, we're just, you know, they're going to be presenting plans to the city for city streets, and I'm going to trust the City Engineer that they'll, you know, build it properly. So, we're just asking for permission to cross the—

Commissioner Kiefer: I have a question, a technical, I mean, not really a technical question, but a finance question. If for some reason the county had to come in and do a repair there at that point, would the county be responsible then to repair the street back to the original condition? Who would be responsible to repair the street if we had to do repair work on the box culvert?

Jeff Mueller: You will have to consult with Mr. Harrison on that.

Joe Harrison, Jr.: On the box culvert—

Commissioner Kiefer: I mean, it would probably never happen, but, I mean, I'm just saying if we had to come in on that box culvert and rip out their pavement to get to it.

Joe Harrison, Jr.: I think it's probably the city. I mean, you know, we're responsible for the culvert, or for approval of anyone going over it and that sort of thing, which is what's being considered here, but, you know, the county is paying for that intersection at what, Virginia and Burkhardt, which is in the city, but we're using TIF funds and that project was started before that area was annexed. I think, for the most part, any improvements to the road and that would be the city from now on. Wouldn't you think? I don't know if the County Engineer is here, but that's my feeling.

Commissioner Kiefer: I mean, we're granting something for the benefit of the developer, which I'm okay with—

Joe Harrison, Jr.: We have to do this though, because it's a legal drain. So, the county—

Commissioner Kiefer: No, no, I understand that, what I'm saying is, we're granting them permission to go over the legal drain—

Joe Harrison, Jr.: Right.

Commissioner Kiefer: – I'm just saying, I'm questioning who pays for the improvements, who pays for the repair of their street if for some reason....normally, if it's grass, it's not that big of a deal, you go in, you repair the grass, you put down some sod, you're done with it. Or you put down dirt and you seed it. I'm just saying it's a little bit more expensive if you're repairing concrete pavement or asphalt.

Joe Harrison, Jr.: Are you asking if there's damage caused?

Commissioner Kiefer: If there's damage caused–

Joe Harrison, Jr.: Well, it's going to be the contractor.

Commissioner Kiefer: For our repair, because we're repairing the culvert, say there's a damaged culvert underneath that street.

Joe Harrison, Jr.: Okay.

Commissioner Kiefer: I'm just saying who's paying for the repair of the street–

Joe Harrison, Jr.: Down the road?

Commissioner Kiefer: – that they're building, down the road, is this street, will it be accepted by the city then?

Jim Farney: Yes.

Joe Harrison, Jr.: Yes, it's going to be a city deal.

President Melcher: Once they accept it, Joe, it's their responsibility.

Jim Farney: This would be–

Joe Harrison, Jr.: Yeah.

Commissioner Kiefer: Okay, that's all I'm trying to get at. I'm just trying–

Jim Farney: It's a very similar situation like you have today at Columbia Street. Columbia Street crossed your Crawford Brandeis box culvert, Virginia Street crosses your–

Commissioner Kiefer: Right.

Jim Farney: – once this street is accepted as a public street, it would be no different than whatever the situation would be at those two locations.

Commissioner Kiefer: Okay.

Jim Farney: I can't speak for what arrangements you as the county may have in place with the city in terms of what you're asking, Joe, but it would be a very exact situation as if you were going to tomorrow have to repair the box culvert under Virginia Street, or if you had to repair the box culvert under Columbia Street.

Commissioner Kiefer: Okay. Alright, well, I just want to understand it so we're clear on who's responsible for the cost. With that, I guess, I'll make a motion to approve.

Commissioner Abell: Second.

President Melcher: I guess, the only thing I would like you to do, if you could shoot our County Engineer an e-mail to this so he has a heads up.

Jim Farney: Okay.

President Melcher: If I knew this was coming, that question was going to be asked, I would have asked him to stay for awhile. Okay, with that, roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Jim Farney: Okay, I think the next thing we would like to ask and bring to the table is a connection to the box culvert. When Cross Pointe Boulevard was built, the section that runs from Columbia Street extension north and ties into Oak Grove Road, at that time when the county built that road, there was constructed along with that road a substantial storm sewer that was designed to drain the surrounding areas up to the size of a ten year storm, which is basically what you allow out on any development. At that time it was also decided that there was a division, there should be a division in the drainage area west of Cross Pointe Boulevard, somewhere between Cross Pointe Boulevard and Crawford Brandeis to which the eastern portion of that drainage area would then drain to the new Cross Pointe Boulevard sewer. The western area would drain to the Crawford Brandeis ditch. That was all approved, and based on that, the storm sewer that lies underneath Cross Pointe Boulevard was designed, sized, constructed and is in place. So, now we, as the developer, are coming forth and are ready to start developing. We know the position of that magic drainage line. The area that this Section One falls in, and its immediate surrounding area, is to the west of that line. So, in 2007 it was decided that this area should drain to the Crawford Brandeis. So, we've gone through and done our drainage report, which now, because the city has annexed, the actual drainage report, which I have here, will be approved by the Board of Public Works, hopefully on Thursday. Jeff says for us to make a connection to your physical system, we need your permission to let the outlet pipe that drains the lake back down after it stores its water, to connect to the Crawford Brandeis. So, we need to ask for that permission.

Jeff Mueller: Let me clarify. Actually what the statute is is that the Surveyor can do that, but, I guess, my question, Jim, was were you going to, on the agreement that was with the Board before on picking up the extra 2 cfs or whatever, is that being addressed in your drainage plan? Or, is that something that's going to be—

Jim Farney: Okay.

Jeff Mueller: Okay, that part is the part that I was asking about.

Jim Farney: Yes.

Jeff Mueller: Are we in agreement with this agreement here?

Jim Farney: Okay. In order to go forward then and answer what Jeff is specifically asking is, this is the new, revised drainage report, which was completed today. As part of that drainage report we have now included that covenant and agreement, which says, basically, that we will handle the runoff from Old National Bank and address it within our system. We've gone back, Jeff, if you want to step over here, we've gone back through the report and, basically, everything in red on the report shows the original value as we had first presented it, and the new value based on addressing Old National Bank.

Jeff Mueller: Okay, so, you're picking it up then?

Jim Farney: So, it's included in this.

Jeff Mueller: So, you're meeting the agreement?

Jim Farney: Yes, we're meeting the agreement, yes.

Jeff Mueller: Okay, alright. Let me explain to the Board. What happened was, when Old National Bank came in, or when the site came in from Old National Bank to be developed, there was a small retention pond there, and in order to meet the drainage specifications, if they tightened the pipe up so that you would only, you know, let out the ten year storm, you were going to have such a small pipe that the concern would be to clog. So, the developers, at that time, went into an agreement with the county Drainage Board saying that, and this was, Bill was pushing this, and a very good idea, was I don't want to see you keep piecemealing this and keep putting more and more drainage on us and never catch up. So, there was an agreement made that said when Old National is developed, we're going to let you go ahead and pass the full amount of water through, but you're going to make it up on your next development. The only thing I told Jim was, you either need to live to that agreement, or you'll have to come back in with a new agreement with the county, but what Jim's telling me is he's living up to that agreement. They're going to make up, they're going to catch up with that drainage. So, there's really nothing that needs to be formalized, because he is meeting the agreement. So, that was all that was being discussed here.

Commissioner Kiefer: So, we just need to make a motion to accept that then?

Joe Harrison, Jr.: I don't think you need to do anything.

Commissioner Kiefer: Do we need to do anything?

Jeff Mueller: I think the only thing I need to do is just look through the plan and make sure that they are meeting the requirements of the agreement, and just tell the City Engineer that they're meeting the requirements of the agreement that was assigned.

Commissioner Kiefer: Okay, so, we don't need to make any motion here then.

Commissioner Abell: Okay.

Jeff Mueller: The only thing that was being brought up was if they weren't going to and they wanted to revise the agreement.

Commissioner Kiefer: Okay, alrighty, thank you.

President Melcher: Well, then, that's something else that we need to let the city, the County Engineer know. We need to do that.

Jeff Mueller: I copied John on the correspondence of this. So, I'm pretty sure I did, maybe I didn't, Steve, I'll double check, but I'll make sure that he is aware of it.

President Melcher: I just want him to not think that we blindsided him.

Jeff Mueller: Yes.

President Melcher: Okay. Any other questions? Any from the audience? I would entertain a motion.

Commissioner Kiefer: I don't think we need one.

President Melcher: No, that's right, we weren't going to do it. I'm sorry.

Jim Farney: Just so you know, Steve and Marsha and Joe, I will send John an e-mail tomorrow explaining what was said tonight, and I'll copy you on it so you can see that it went through. Okay?

President Melcher: Okay.

Jim Farney: Thanks.

Commissioner Abell: Thank you.

Commissioner Kiefer: Appreciate it, Jim.

President Melcher: Thank you very much.

Joe Harrison, Jr.: Thank you.

<p>Invironmental Technologies, LLC/American National Red Cross Tom Norton: Representing Red Cross</p>

President Melcher: Next we have Tom Norton here representing the Red Cross. He requested to address the Board regarding the Invironmental Technologies, LLC/American National Red Cross.

Tom Norton: Thank you. I'm not sure exactly how to put this in an historical perspective, but you dealt with this matter back on March 26th, I think, in your minutes back then.

President Melcher: Just state your name, so we have it for our records.

Tom Norton: Excuse me, I'm Tom Norton, and I'm here representing the American Red Cross in connection with the drainage plan that was previously submitted on

Locust Creek Drive by Invironmental Technologies. I believe that matter was heard by you all on March 26th, and you probably heard at that time the topic of an easement that was thrown around at that time. If I may, I would like to give you a couple of drawings, if I may. This is an aerial photo of the site, and the part that is in yellow is the American Red Cross' property. Invironmental Technologies is immediately to the east, or the other building that's shown there. If you're wondering what the hash marks are, I took this right off of the Vanderburgh County Assessor's plats, and those are the impositions of the topography lines showing the drainage set up basically with that area out there. If you'll notice, there's kind of a central drainage area that would move down toward the east boundary of American Red Cross' property, right about where it intersects with Invironmental Technologies. Now, where does that leave us? There was a drainage plan submitted back in March, and it involves Invironmental building a retention wall along the full line of that boundary between them and American Red Cross. In other words, raising the level of their property to essentially stop natural drain water coming off of American Red Cross' property. We feel that if that continues we will end up with either a ponding situation or a retention of water, which we have nowhere to go with. That was raised to Invironmental Technologies prior to your hearing, and in an effort to resolve it, in fact, Mr. Reising's here. He was part of that meeting, and I think Jeff Mueller was, that was done at the site I believe a day or maybe the morning of the actual hearing. They had worked out an agreement whereby Red Cross would be given an easement to install a drain that would go along that eastern boundary, down to the south end, take a perpendicular turn toward the drainage basin that's going to be installed in connection with the drainage plan. That's what was tentatively worked out at the time, I believe. I was on a, I'm just local counsel for American Red Cross, by the way, and I did not negotiate all of these items leading up to it, but I was on call for that hearing, and I was told that everything had been worked out, don't come to the hearing. So, we were under the impression that an easement was going to be signed which would allow us to vent our drain water, our surface water into that drainage basin that's part of the drain plan that was submitted by Invironmental. I don't know where that got lost in the fog. I've looked through the minutes and there seems to be some disagreement as to the nature of the easement. I've been told by counsel for American Red Cross that there was actually a document submitted, and they were more than happy to accept it. I'll submit a copy of the same.

President Melcher: Thank you.

Tom Norton: Then, I believe, between counsel, Rick Martin, for Invironmental Technologies and a Matthew Chosid who was representing American Red Cross at the time had some discussion. If you look at the exhibit that's attached to the easement, the intent was to establish a drain on the eastern boundary, and it gives a direction where it would go down to the south end and then tie into the drainage basin. What seemed to be the issue is how much space does this easement need to take place? This drawing, which we're more than willing to accept is indefinite. It doesn't really say, if you look at it, it doesn't say how wide the easement is. It doesn't say where we can put our equipment, and we were more than happy to take that. What they did was suggest to the counsel that if, you know, if they really wanted to hold the area where it would be done, that we would work out an actual width of that easement. Then ensued what appeared to be a disagreement. Our, Mr. Reising is here and will be happy to tell you, if necessary, what's needed for width in order to install the drain system that would go in there. To make a long story short, he tells me that he needs essentially eight feet on the eastern boundary, and he needs up to 15 feet on the southern boundary to get the equipment in there to install that. I can't imagine that would be a problem between us and the neighbors at this point.

It's our cost, we're doing it, and why that would be an issue. The easement is going to be under, or the pipe is going to be underground, you won't even see it in the future. It's put on the perimeter of the property so it doesn't interfere with any of their building, and yet today, and even after that meeting they have refused to sign this easement. It's our position that that's causing us damage by virtue of their drain. I'll be happy to entertain any questions, but we're simply here to voice our objection to that and ask that perhaps the granting of their drainage plan be temporarily rescinded until we can work something out.

Joe Harrison, Jr.: Can you, Mr. Norton, can you indicate if you've had any conversations with Invironmental Technologies or any of their representatives?

Tom Norton: I have not with, directly, because they're represented by counsel. As you know, I have to speak with their attorney.

Joe Harrison, Jr.: Right.

Tom Norton: Today I did start a conversation with Rick Martin. He finally got in touch with us, and I think my letter has probably been out to him for more than two to three weeks at this point, and today I get the first conversation. Again, I mentioned the fact of the needed eight feet and maybe a little wider on the south, and he said, well, his client felt that we didn't more than two feet to put that pipe in. So, that's kind of where it was left. I didn't seem to get anywhere with it. So, that's where we are. Again, my client would be happy to accept this document if it was signed and recorded. It's indefinite. It doesn't really say, but we'll take that and take our chances with it.

Joe Harrison, Jr.: Mr. Mueller, the drainage plan that was approved back in March, it didn't really include the easement issue, did it?

Jeff Mueller: No, it just included the installation of the pipe. I think there was one small, plastic structure.

Joe Harrison, Jr.: But, I think what was discussed was, hey, I think they're going to do an easement, or grant an easement.

Jeff Mueller: Right.

Joe Harrison, Jr.: It was going to be mutual, I guess, it was going to be signed by both parties, but that was kind of represented at the meeting, but I remember there was some question about whether it was going to get actually executed.

Jeff Mueller: I think there was, I have to go back on my memory too, but it was discussed about, you know, everything was okay, it was ready move ahead, and then there was some discussion about—

Joe Harrison, Jr.: About the width.

Jeff Mueller: — yeah, about a 20 foot width, which I never even saw a 20 foot width in the easement. You know, I think the last discussion was, well, the easement was between the two parties—

Joe Harrison, Jr.: Right.

Jeff Mueller: – we’ve decided that the drainage plan is here, it will work, and we’ve done it, you know.

Joe Harrison, Jr.: But, again, the Board, I think, had some inclination that there was some, maybe going to be some agreement.

Jeff Mueller: Right.

Joe Harrison, Jr.: Okay. Well, what is your thought on this? I can tell you, I did receive a call from Mr. Martin, and he’s out of town, and he asked that if anything is going to be done to rescind any action that if it would be delayed until the next meeting so that he could be here, but that was his message to me.

Commissioner Abell: This is not, this document has not been signed?

Tom Norton: No, it has not.

Commissioner Abell: Well, what is there to rescind? Nobody’s signed anything.

Joe Harrison, Jr.: Oh, well, he–

Tom Norton: The drainage plan.

Joe Harrison, Jr.: – yeah, the drainage plan would be rescinded.

President Melcher: I don’t think anybody was representing the Red Cross that night. Is that right?

Joe Harrison, Jr.: Right, right.

Tom Norton: Because we were under the impression that it was granted and that everything was taken care of.

Joe Harrison, Jr.: It was a done deal.

Commissioner Abell: Yeah.

President Melcher: So, that’s, we were under that impression too. We need to get all of the parties here at the same time.

Commissioner Abell: Yeah.

President Melcher: To be fair to both sides. I’m okay with holding it until the next meeting and we can get the other group in. Do you think–

Joe Harrison, Jr.: But, this is what I would do, I mean, it’s got to come to a head.

President Melcher: I understand that.

Tom Norton: Right, and right now they are in construction. They have established that wall. It’s not been backfilled. There’s work being done to probably do their parking lot and other features around there. I guess, Kirk could probably speak to whether that might interfere with what American Red Cross would plan to do as far as an installation.

Kirk Reising: I can give you a short synopsis of what's going on. Kirk Reising with Bill's Plumbing. Basically, where they are right now will not incur anymore expense on the Red Cross, if they stop right now. Because when we had that meeting that day, like you said, it was all worked out where they were going to let me know who, when they awarded the contract. I was going to get a hold of that contractor so we could coordinate the laying of the pipe with their wall.

Joe Harrison, Jr.: Who's doing the work for them?

Kirk Reising: I don't know. He never called me. I talked to Mr. Brady on 4/1/13.

Joe Harrison, Jr.: Well, somebody's doing work?

Kirk Reising: Yes.

Joe Harrison, Jr.: But, you don't know who it is?

Kirk Reising: No.

Joe Harrison, Jr.: Okay.

Kirk Reising: So, basically, I don't want to get on his property and start laying this pipe without the proper authority or permission.

Joe Harrison, Jr.: Right.

Kirk Reising: Which is what this has boiled down to. Everything's going the way it was, but we still don't have anything signed giving me permission to go over there and do our work.

Joe Harrison, Jr.: Right.

Kirk Reising: So, that's where we're at.

Joe Harrison, Jr.: And, you're with whom again?

Kirk Reising: Bill's Plumbing.

Joe Harrison, Jr.: Bill's Plumbing?

Kirk Reising: So, we're actually—

Tom Norton: He would be the contractor for American Red Cross.

Joe Harrison, Jr.: Yeah, for Red Cross. Who is going to be doing their, I mean, are they going to be doing some work out there as well?

Kirk Reising: Red Cross?

Joe Harrison, Jr.: No, Invironmental Technologies.

Commissioner Abell: He doesn't know.

Kirk Reising: I don't know who's doing it.

Commissioner Abell: It's being done now.

Kirk Reising: Yeah, it's in the process. They have the wall up, they have it about halfway backfilled, which when I had that meeting with Mr. Brady, I said, when they get about half backfilled they need to stop and let us come in and do our work.

Joe Harrison, Jr.: Right, but you have no idea who that is?

Kirk Reising: No.

Joe Harrison, Jr.: Okay.

Kirk Reising: He never called me.

Tom Norton: I do know that I've been going by there because it's on my way back and forth from home, I think that wall has gone up at least within the last ten days, because it wasn't up there about a week or so ago.

Commissioner Abell: I think we should rescind it and tell everybody (Inaudible. Microphone not on.) Isn't that what we should do? We can't let them keep working on it, if it's not...they're going to have that whole thing done, and they won't even have gone in and done what they had to do yet.

Joe Harrison, Jr.: I don't know about rescinding it, but maybe you could, you know, and maybe, the Surveyor may want to comment, you know, maybe they just stop all work. I don't know about rescinding, but kind of stop work until such time as it gets worked out.

Jeff Mueller: I don't know how we, I mean, I guess the question is—

Joe Harrison, Jr.: It's really a Building Commission deal, because the permits have been issued.

Jeff Mueller: It's a Building Commission issue.

Joe Harrison, Jr.: Yeah.

Jeff Mueller: I mean, the whole thing was, this was brought up back in December, you know, and Bill rightly said that, you know, they need a drainage plan, because if not, they're going to throw a wall up and they're going to block the Red Cross' drainage, you know. He had the foresight to see that. It just seemed like a very simple solution, especially since Red Cross was willing to put the pipe in. They were willing to put the pipe in to keep the water from washing Mr. Brady's wall out and also keeping what we thought was an obstruction petition from coming before this Board. But, now, we've got an issue of, I don't know why he won't sign an easement. I'm not sure.

Joe Harrison, Jr.: I don't think we have any authority to really issue a stop work order. Really that's a Building Commission or Area Plan, I guess, issue.

Jeff Mueller: I mean, I can ask them tomorrow what they can do.

Joe Harrison, Jr.: Right, but, I think, at the very least this needs to come back in two weeks. You might check into it and let them maybe go out and take a look at it to see if they think there's an issue.

Jeff Mueller: I mean, in defense to Mr. Norton, I don't know if defense is the correct word, but, you know, after the last meeting I sent Tom an e-mail the very next day saying you're on the agenda and we copied Mr. Martin on the e-mail, you know, that this was going to be coming up, you know, in regards to Mr. Norton's letter. So, they were notified that this was coming up tonight.

Joe Harrison, Jr.: Well, and they know it's going on right now.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: I just think you might want to talk with the Building Commission and Area Plan to see if they can go out there and talk to the parties. Maybe some action is warranted. Is that reasonable?

Jeff Mueller: I'm more than willing to talk to them to see what can be done.

Joe Harrison, Jr.: Yeah, but they have valid permits. That's the thing, and we can't, we don't have any authority to do anything with the permits that have been issued, approved for the work to be done by Invironmental Technologies.

Tom Norton: Were those permits based on this Body's decision in part?

Joe Harrison, Jr.: Well, again, the only thing I can tell you is, this drainage plan was not, the easement was not part of the drainage plan. I mean, it wasn't a condition, I guess. Is that accurate?

Jeff Mueller: Yes, I believe so.

Joe Harrison, Jr.: But, we thought everything was worked out.

Jeff Mueller: Yes.

President Melcher: So, the final answer is?

Joe Harrison, Jr.: I don't think, right now, I think we need, I think the drainage plan could be rescinded, but I think it would be a good idea if we had both parties here if that action is going to be taken. If they're not here at the next meeting, if all parties aren't here, then, I think you guys can do what you want.

Tom Norton: May I suggest something? Is there a possibility of a suspension of the approval of the drainage plan? Which would then, it would seem to me, that would send the signal to the Building Commission.

Joe Harrison, Jr.: Well—

Tom Norton: Then we could have this out. I don't want to say yea or nay or bind the Body of any decision, but that would seem to be the fair thing to do, because we didn't get an opportunity to speak when they were up here. I understand they're not being here either.

Joe Harrison, Jr.: No, I understand, and that's up to the Board if they want to consider something like that, then the Building Commission can be advised accordingly and go out there. I think that's possible. I mean, they were advised, according to Mr. Mueller, I saw his e-mail to Mr. Martin, and I did speak to Mr. Martin today about the matter. So, I think it's up to the Board. I, it's your call on what you guys want to do.

Commissioner Abell: Well, I don't know what our legal things are, but I want to stop the work. This is ridiculous.

Joe Harrison, Jr.: I agree. I'm leery about suspending any drainage plan at this point, but I do think that if you could make a motion to request Mr. Mueller to speak with the Building Commission and Area Plan about the concerns you have, and that this matter is going to be heard in two weeks to finalize, one way or another, that might be appropriate.

Jeff Mueller: May I make a suggestion?

Commissioner Abell: Sure. Everybody else has.

Jeff Mueller: I'm thinking out of the box here. This was originally brought up with the idea, or the fact that, you know, if this work proceeded on that, you know, eventually there was going to be a drainage obstruction on the Red Cross property. What I could do would be call the folks and say, look, if you guys continue to build and you don't let Red Cross have their opportunity, what's going to end up happening is you're going to obstruct the Red Cross' drainage, we're going to be up here before a drainage obstruction permit, or drainage obstruction, and if the Board rules against it, they're going to be telling you to knock your wall out.

Commissioner Abell: That's what I was going to ask, if we could just make them tear it down.

Jeff Mueller: So, I mean, it's, I don't want to say it's a threat, it's a this is what could happen if you guys don't, you know, work together.

Joe Harrison, Jr.: Well, and that's what we were concerned about from day one.

Commissioner Kiefer: I have a question. You know, this drawing here shows you guys putting in this 12 inch double wall corrugated culvert, but on the side of the property belonging to your neighbor, Invironmental Technologies. Why could that, why could not that double wall corrugated culvert simply not go on your property on the other side of the wall and just carry that water on your side of Red Cross property along there and then have it dump out down at that bottom corner like it's showing here, you know, with the flow then draining out at the end of the retaining wall?

Jeff Mueller: It's draining out though through a pipe, Joe, and then running out on a pipe on what would be their southern boundary. So, you would still end up being on Invironmental Technologies property for the one stretch of it. The pipe's going this way and then this way. So, yeah, you could—

Commissioner Kiefer: Yeah, but, I mean, I'm saying, you know, basically go on the other side of the wall, let all of the water drain here, and then—

Jeff Mueller: Just dump it?

Commissioner Kiefer: – dump it there at the end, at the bottom, you know, let it flow down into that new catch basin. I don't understand why that wouldn't work.

President Melcher: They're going to have to sign something to let them on that property.

Joe Harrison, Jr.: Yeah, that would have to be—

Kirk Reising: Tell me what you're asking.

Commissioner Kiefer: What I'm asking is, here's the new retaining wall, right?

Kirk Reising: No. The new retaining wall is right here.

Commissioner Kiefer: Okay, there's the new retaining wall.

Kirk Reising: Yes.

Commissioner Kiefer: Now, where's the property line?

Kirk Reising: Right here. This is Red Cross.

Commissioner Kiefer: Okay.

Kirk Reising: This is the property line, that's the new retaining wall.

Commissioner Kiefer: My question is, why can't you just put your corrugated pipe along your property line to here?

Kirk Reising: This is a, starting right here, this is a hill that probably goes up about that far, if we divert all of the water right here, it's going to wash down behind his wall in this woods and wash down this parking lot and continue to bring mud and everything down on here. This retaining wall actually runs about down to here, because this is all hill. So, there is no place to put it, unless we pipe it over. This is a catch basin. He has installed a drain all the way across the back of his property. This is the only place it can go. The street is actually higher in this area, because it naturally went here before they did all of this.

Tom Norton: The south boundary is higher too.

Commissioner Kiefer: It naturally went where?

Kirk Reising: It went right around in here and right out this way.

Commissioner Kiefer: Yeah.

Kirk Reising: Because everything is sloped this way, and this all slopes in this way. This is an existing catch basin here. Basically, this is a dam and we've no place to go.

Commissioner Kiefer: Okay.

Kirk Reising: So, he was more than happy to let us come down and tie into this thing. That's what doesn't make sense. All we need is legal permission to get on the property and put it in.

Commissioner Kiefer: Okay.

President Melcher: Does he have that paperwork now?

Joe Harrison, Jr.: Yeah. They prepared it.

President Melcher: Okay. Well, then, what I would recommend, I guess, to move this on, Jeff, you need to get a hold of the Building Commission and see what you can do. I would still call him and tell him that in two weeks we could be reversing that decision.

Commissioner Kiefer: And the drainage obstruction.

President Melcher: Right, and talk about the drainage obstruction. Say there's a lot of things yet, and all you've got to do is sign a piece of paper.

Jeff Mueller: Yes, sir.

President Melcher: If you don't sign the paper, come to our meeting in two weeks, and tell us why you're not signing it. If you don't show up, then we're going to stop it. Does that—

Commissioner Kiefer: Sounds good to me.

President Melcher: Alright, that's what we'll do.

Jeff Mueller: That sounds fine, Mr. Melcher. I think it's a good idea.

President Melcher: Okay.

Jeff Mueller: So, I'm going to talk to the Building Commission, and I'm also going to talk to him and explain to him the potential consequences.

President Melcher: And just tell him this is the last time we're going to hear it. So, if he doesn't want to be here, then the next time he's in will be over an obstruction, what you just said. Mr. Norton, did you have anything else to add?

Tom Norton: Not at this time, but I also assume, are we back on the agenda?

President Melcher: Yes, I said both earlier. We need both of you here.

Tom Norton: I'll just save my breath until then.

President Melcher: Because, you're here, they were here, you weren't here, you know, so, we've got to get this thing done, but I'm glad you was here tonight, because that way we halfway understood it a little bit better.

Tom Norton: I appreciate it, and your patience and time to listen to it. Thank you.

President Melcher: Thank you.

**Update on Huang-Huston Drainage Obstruction Petition:
Appearance of Candice Huston to Address Board About Status of Project**

President Melcher: Next we have the appearance of Candice Huston to address the Board on the status of completion of her duties regarding the Huang-Huston drainage issue.

Candice Huston: Hi, Candie Huston.

President Melcher: Do you want to speak your name—

Candice Huston: Candie Huston.

President Melcher: – and address into the mic. Go ahead.

Candice Huston: Candie Huston.

President Melcher: Okay. So, what do you want to say or do?

Candice Huston: I don't know.

President Melcher: Jeff, maybe you ought to start it.

Jeff Mueller: Yeah, let me. As we back up, this has been going on for a couple of years, and I think originally the Huang's had filed an obstruction petition, and later on it was determined that, rather than dealing with it through the obstruction petition, that Mr. Jeffers dealt with it through the drainage code. As you're aware, there was, a revised drainage plan was put in for Candie to perform on the back of her property. There was some delays on that because of some issues that Candie had, but at the end of the year the plan, she hadn't paid for the plan, so at the end of the year, the way things left it when Bill left office was the plan was paid for, she needs to get the encroachment agreement, come back in with an encroachment agreement, and then start the physical construction of the work. Nothing has happened since that time period. At that time, the drainage plan came in, but that was the one that had been previously approved, it just hadn't been paid for, so it wasn't, I guess, official, you know, we were trying to protect the consulting engineer by, you know, saying we're not accepting the plan until you receive payment. So, what we're at now is that we need an encroachment agreement from Candie, we need to show that she's got an easement with Mr. Tim Scheu, because part of the drainage has to go that way, and we need to see some physical work done. So, why we've requested her here tonight is because it's now July and nothing's happened since December, and we've requested her to come before this Board. On top of that, I understand that she's got her house for sale, or may have a pending sale on it. So, we need to discuss what's going on and how is this going to get done so that we know that this project is going to move forward. So, that's why we've requested her to be here tonight. Okay, I'll let you talk.

President Melcher: So, you probably need to address why we haven't started, how come you don't have—

Candice Huston: I've been very ill. I've been sick since January. I've got a seizure disorder and central brain disorder. I've had two surgeries already since January. I just got back to work, and I've been docked pay because I've already used all of my

sick pay. So, my, when I go to work I only get paid the days that I work. So, I can't afford to get the work started. But, I did put my house up for sale, because this is the only way that I can pay for it. So, the house is sold, and as soon as we do the closing, it's in my agreement with the buyer that I will take care of the drainage.

President Melcher: Have we seen any of that?

Candice Huston: I just now put it up last week. I put my house up last week.

Joe Harrison, Jr.: And it's already sold?

Candice Huston: I just sold it.

Joe Harrison, Jr.: I mean, you've got a purchase agreement?

Candice Huston: No, not with me.

Joe Harrison, Jr.: But, someone has signed a purchase agreement with you?

Candice Huston: Yes.

Commissioner Abell: Did you sell it through a realtor?

Candice Huston: Yes.

Commissioner Abell: Which one?

Candice Huston: ERA. It's 742 Trillium Way.

Commissioner Abell: Seven, I'm sorry?

Candice Huston: 742 Trillium Way. It's with ERA Realty. It is sold.

Joe Harrison, Jr.: And, you're saying a condition of sale is to comply with the drainage plan?

Candice Huston: Absolutely.

Joe Harrison, Jr.: Okay. We need to get a copy of your...can we get a copy of your purchase agreement?

Candice Huston: Absolutely.

Joe Harrison, Jr.: Okay, can you get that to Mr. Mueller?

Candice Huston: Absolutely.

Joe Harrison, Jr.: Okay. In the next several days?

Candice Huston: Oh, I can get it to him tomorrow.

Joe Harrison, Jr.: That's even better. If need be, now, do you have the revised drainage order, a copy of the plan? Can you get that to her, the requirements?

Jeff Mueller: It's the sheets that Justin did.

Candice Huston: Yeah.

Joe Harrison, Jr.: I understand. I just want to make sure her purchaser has got everything.

Candice Huston: Yeah, they do.

Joe Harrison, Jr.: Okay.

Candice Huston: They understand everything.

Joe Harrison, Jr.: Okay. It may be that the county may have to just, if they haven't already done so, the county will probably have that recorded, you know, that drainage plan so it's of record.

Candice Huston: That's fine, yeah. I'm not, that's the reason why I'm here. I'm not here to run from my problem.

Joe Harrison, Jr.: I understand.

Candice Huston: I'm here to fix my problem and move on.

Joe Harrison, Jr.: Okay.

Candice Huston: I can't afford to do it still living in the home. So, I've had to sell it.

Joe Harrison, Jr.: Okay. Well, if we can get a copy of that to Mr. Mueller—

Candice Huston: Absolutely.

Joe Harrison, Jr.: — and then if Mr. Mueller still has any issues here in the next week or two, I'm sure he'll come back and get a hold of you—

Candice Huston: That's fine.

Joe Harrison, Jr.: — and talk to us.

Candice Huston: That's fine.

President Melcher: Why don't we just plan for you to be here in two weeks right now.

Candice Huston: That's fine.

President Melcher: Just plan on you to come in two weeks, right now, because what we, you know, we were going to take some more measures, but if this is happening and everybody's agreed with us, there's no sense in us interrupting it. You go ahead and get him the agreement—

Candice Huston: Okay.

President Melcher: — so we can get this started, so we can verify that the new owners aren't going to be surprised.

Candice Huston: Okay.

President Melcher: We don't want that.

Candice Huston: Okay.

Joe Harrison, Jr.: When is the closing?

President Melcher: Then, we—

Joe Harrison, Jr.: I'm sorry.

Candice Huston: I don't know. They just, I put it up on Sunday, and they purchased the house Saturday. So, that's basically all I've got for you all.

President Melcher: The only thing I'm saying is we need a copy of that. Joe, when you get a copy of that, if you could send it to us—

Joe Harrison, Jr.: Sure.

President Melcher: – so we know what's going on, but you still be here, just in case.

Candice Huston: Yeah, absolutely. As long as I'm not sick.

President Melcher: Because we're going to move this project. Anything else?

Commissioner Kiefer: So, we don't need to make a motion?

President Melcher: No.

Candice Huston: Thank you.

President Melcher: I think she knows she's got to come, and, Jeff, you're going—

Candice Huston: What's the date on that please?

Madelyn Grayson: July 23rd.

President Melcher: July 23rd.

Candice Huston: Okay, that's fine.

Commissioner Abell: I do have one question of you. Do you have a Plan B, in case this sale falls through?

Candice Huston: No.

Joe Harrison, Jr.: But, we are going to have the drainage plan, you know, recorded as well. So, it's kind of in the chain.

Candice Huston: I don't have any fears of my house selling. It sold in a week. So, if it has to go back up on the market, I don't fear my house not selling.

President Melcher: Okay.

Candice Huston: It's brand new. I just built it.

President Melcher: Okay, do you got any questions, Jeff?

Jeff Mueller: No, I think that covers it. I think, you know, the goal is, like you said, Mr. Melcher, was to try to keep this thing moving. One way or the other we need to keep it moving, I agree.

Candice Huston: I agree too.

Jeff Mueller: Okay, thank you for your time.

Candice Huston: Thank you.

Update on the Burkett-Moore Drainage Petition

President Melcher: Update on the Burkett-Moore drainage petition.

Jeff Mueller: I'm sorry.

President Melcher: The update on the Burkett-Moore drainage petition.

Jeff Mueller: I just wanted to tell you on that, I sent a letter to Mr. Moore, summarizing, you know, the motions that the Board made. In that we told him he had to have an engineered plan to us and have it back to us by July 18th. We haven't hit July 18th yet. I did get a call from Glen Merritt with Cash Waggoner today, and apparently Glen is working on that plan for Mr. Moore.

President Melcher: Okay.

Jeff Mueller: So, it does sound like we're moving ahead. Glen knew of the deadline, and I said, are you planning on having something to us? He thought he was. So, right now, it seems like we're on schedule with this.

President Melcher: Okay, any questions?

Commissioner Abell: Is that the one that they didn't know who owned what property?

Commissioner Kiefer: Yeah, it is.

Commissioner Abell: Okay.

Plocik-Baker Drainage Obstruction Petition Hearing

President Melcher: Okay, the obstruction petition hearing. I'm not going to pronounce this right. How would you pronounce that?

Jeff Mueller: It's Plocik.

President Melcher: Plocik and Baker?

Jeff Mueller: Yes.

President Melcher: Okay.

Jeff Mueller: If you'll give me one second, I need to plug in here. There we go. Once we get this going here, we'll be fine. Okay, alright. Sorry about that. This is the Surveyor's report for the Daniel Plocik obstruction petition. The petitioner is Daniel Plocik of 14686 Old State Road, Evansville, Indiana. The respondent is Tim and Lisa Baker, 14662 Old State Road, Evansville, Indiana 47725. The petition was filed on May 10, 2013. The petition was entered by the Board at a regular scheduled meeting dated May 14, 2013. Notifications were sent to both parties by certified mail, the return receipt was received from both parties. I believe that both parties are represented here tonight.

Property Description Location:

Jeff Mueller: Both properties lie along Old State Road in the vicinity of Scott School. The star there shows you that, Scott School up here, this is Old State Road. I've learned I've got to use my mouse tonight. That helps you all? The Plocik property is lot four and the Baker property is lot five of the William Wortman Subdivision. The properties share a 351 foot common property line. The back of the properties abut properties located along Old State Court in the William Wortman II Subdivision. As this subdivision was platted in 1975 prior to the county's drainage code, there is not an approved drainage plan for the subdivision.

Description of the Obstruction:

Jeff Mueller: Mr. Plocik, in his complaint, cites that the obstruction consists of, "wooden and earthen manmade barriers along the common property line". The issue of the complaint is the construction of a retaining wall, let's see, I lost my place there, and fence along the common property line between the two properties that is alleged to be blocking the natural sheet flow from Mr. Plocik's property.

Investigation by the County Surveyor:

Jeff Mueller: Site visits were made on May 21st to the Baker property and May 22nd to the Plocik property by Jeffrey D. Mueller, PE Vanderburgh County Surveyor and Linda Freeman, Vanderburgh County Surveyor Chief Deputy. On the visit to the Baker property both Tim and Lisa Baker were present, along with David Hynes, an engineer with Commonwealth Engineering. On the site visit to the Plocik property Mr. Plocik was present. The Bakers had constructed, near or along the common property line, a retaining wall and fence structure. Behind the retaining wall, on the Bakers' property is fill, material had then been added essentially raising their property above that of Mr. Plocik's. Mr. Plocik's contention was that the construction of the wall had blocked the natural flow of water coming off his property and causing water to back up on his property, including water that discharged from the drains from his house and septic systems. The constructed wall consisted of a wooden retaining wall, and on top of the retaining wall a fence had been placed. The total length of the constructed wall system was 114 feet in length. The constructed wall system begins approximately 79 feet from Old State Road. This is at Old State Road, this is the start of the project right there. The Baker property on the left, the Plocik property on the right, 79 feet from the edge of the pavement of Old State Road. At the start of the system a six foot fence begins and then runs north-northwest near or along the property line. After about nine feet of fence length, that's where that point is, you can start to see the wood retaining wall is visible. Because of the slope of the ground, right there is where it started, because of the

slope of the ground, as one proceeds along Mr. Plocik's side of the property line, the retaining wall becomes more visible and becomes higher. At 86 linear feet from the start of the system, the retaining wall is approximately 50 inches high. At this point the fence ends. So, you can kind of see, this is the fence, the retaining wall, and then there's where the fence ends. There's another 28 feet where there's just retaining wall before it ends. At this point on Mr. Plocik's property the retaining wall is approximately 54 inches high. On the other side of the retaining wall, the Baker's property, the wall is only 48 inches high. A drawing of the layout of this structure is included and made an appendix to this report. You've got, you should have a copy of the written report and this drawing is in there too, so in case you're kind of wanting to see it, but you can kind of see, here's the start of the fence, then the retaining wall becomes visible and there's a couple of different places I'll be pointing out as we go down through there. As a possible result of the construction of the constructed wall system, at approximately 40 feet from the beginning of the fence the natural sheet flow has been channelized. That's the channel right there. At that point a small channel of approximately nine inches in depth is visible. The channel is approximately three feet off the wall structure. The channel continues along the structure, a dead tree is located approximately 77 linear feet from the point of the beginning of the fence. At 91 feet, linear feet from the beginning of the fence is the location of Mr. Plocik's house drains. That's the drain right there where it's coming out. Approximately 20 feet beyond the end of the retaining wall is standing water, alleged to be from Mr. Plocik's septic system. That's this right here. So, you can see water, this is the drain, his house drain is up here, and then there's some black water right here. Okay?

County Surveyor's Findings: Objects/Materials Constituting the Alleged Obstruction:

Jeff Mueller: The County Surveyor, on both trips to the area, found a constructed combination retaining wall and fence with a total length of approximately 114 feet.

The impacted area meets the statutory definition of a natural surface watercourse. (I.C. 36-9-27.4-3)

Jeff Mueller: The impacted area is an area of surface of the ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction and channel. The drainage from the area, this is kind of, this is Old State Road, the drainage from the area flow initially in a northwesterly direction. So, it kind of flows this way, and then what it should be doing is then kind of making a turn and then starting to head this direction. So, the drainage flows from the area initially in a northwesterly direction and initially parallel to the property line, but then in a more westerly direction across the common property line of the Bakers and Mr. Plocik. The drainage area consists mainly of drainage adjacent to Old State Road and Mr. Plocik's property.

Statutory Definition of Obstruction: (I.C.36-9-27.4-4)

Jeff Mueller: The Baker's alterations along the adjoining property line, by placing a quantity of materials inside or near a drain prevents or significantly impedes the flow of water as defined by applicable chapter I.C. 36-9-27.4.

The County Surveyor's Finding of an Obstruction at the Site as Alleged: (I.C. 36-9-27.4-12)

Jeff Mueller: The County Surveyor's investigation found conditions, objects, materials and damages (standing water) located on Mr. Plocik's property, which conditions, object, materials or damages significantly impede the flow of water through the natural surface watercourse, thereby causing poor drainage of Mr. Plocik's property. You can see some standing water there. This is water from his house drain. Some standing septic water. You can kind of get a very good picture of here's the natural, and then you kind of have a mound of material right here.

Board's Responsibility to Make a Finding: (I.C. 36-9-27.4-14)

Jeff Mueller: If after a hearing held under I.C. 36-9-27.4 the Drainage Board finds that the obstruction of a drain or a natural surface watercourse as alleged in the petition exists, and the removal of the obstruction will promote better drainage of the petitioner's land and not cause unreasonable damage to the land of the respondent's, the Drainage Board shall find for the petitioner.

Board's Determination of Whether an Obstruction was Created Intentionally: (I.C. 36-9-27.4-15)

Jeff Mueller: If the Drainage Board finds for the petitioner, the Board then must determine, based upon a preponderance of evidence, whether the obstruction of the drain was created intentionally by the respondent.

Status of Obstruction with Regard to "Intentional" or "Unintentional":

Jeff Mueller: The County Surveyor ascertained through conversations with Mr. Plocik and the Bakers that the Bakers did make certain intentional modifications along their property line, including the construction of a retaining wall and fence.

Duty of Board upon Finding of Intentional Obstruction: (I.C. 36-9-27.4-16)

Jeff Mueller: 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 this own expense, or direct the County Surveyor to remove the obstruction at the expense of the respondent.

Summary and Recommendations of the County Surveyor:

Jeff Mueller: The County Surveyor is of the opinion that the construction of the entire retaining wall may have assisted in channelizing the sheet flow of the natural surface watercourse. However, only the northern portion of the retaining wall actually impedes the flow of the natural surface watercourse. The County Surveyor suggests that they develop a plan by a licensed professional engineer that would eliminate standing water and allow for Mr. Plocik's house drains to function. Because of the location of the house drains this will most likely require removal of some or all of the last 28 feet of the retaining wall, as well as some of the fill along the Baker's property. So, not so much where the fence is, but going back here, this wall right here, we would be taking out some of that, and in this low area, this dirt, this higher amount of dirt would have to be removed so that you would get sheet flow coming down, the natural surface water flow coming down, coming around to circle around

the property. The drainage plan should also insure that the natural surface watercourse area for Mr. Plocik's backyard, immediately where the retaining wall ends and for a distance of at least 20 feet will not be impeded and can naturally flow through the Baker's backyard as it naturally occurred. The plan should be developed and submitted to the Vanderburgh County Surveyor for his review within 30 days of the hearing. Mr. Plocik will grant permission for an engineer of the Baker's choice to enter his property for the purpose of making a survey in order to develop this required plan. After review of the plan Mr. Plocik will grant permission to allow for limited entry by a licensed contractor as needed to assist in completing the plan, as well as the removal of the dead tree. Any disturbed area on Mr. Plocik's property, as well as the Baker's property, will be seeded utilizing an appropriate lawn seed, starter fertilizer and erosion control fabric where required by prudent engineering practice. It should be noted that these recommendations only address the alleged obstruction of the natural surface watercourse. While implementation of the recommendations may improve the operation of Mr. Plocik's septic system, the implementation of the recommendations are not made with the purpose of guaranteeing the performance of Mr. Plocik's septic system to acceptable standards. Deadline for the work should be no later than September 15, 2013. The Surveyor's report is submitted by myself, Jeffrey D. Mueller, PE, Vanderburgh County Surveyor for consideration at the Vanderburgh County Drainage Board meeting, July 9, 2013. I know both parties would probably like to address you. I don't know if you have any questions for me immediately, or if you want to let them talk first.

President Melcher: No, we probably need to let them talk now.

Jeff Mueller: I'm sorry?

President Melcher: We'll let them talk.

Petitioner's Testimony:

Jeff Mueller: Okay. Mr. Plocik?

Dan Plocik: I did a Power Point also. I made one hard copy.

President Melcher: We could have it for our records, yes, sir.

Dan Plocik: A lot of what, my name is Dan Plocik. A lot of what's in my presentation has already been covered, but there is a significant difference, and I think there's more evidence, especially when it comes to whether or not this was intentional, or to what extent maybe the watercourse has been changed. I guess, I didn't have any idea that, actually your report would be today. So, I thought, you know, some of what I put in here has already been covered in your report. What I want to show first of all is some photographic evidence as to what was the original surface watercourse, and how this blockage has affected that, and what damages my property has suffered on that. What I have now is, I have water flow that is being forced to go over the last lateral of my septic drainage bed. What's happening is that's causing a back flow of water. So rain water goes into just that one lateral and basically comes out the other end. While it does that it brings along with it this black water that is, I'm pretty sure from the septic system. This picture is the only picture I could find that showed what the property looked like prior to any of this construction. What I'm showing here is that, at this time you don't see any dead grass, you don't see any evidence that there was any kind of water problem or drainage problem. This is a picture taken fairly early in the construction of the blockage. The original drainage,

you can, I think you can see on the picture the elevation difference between here and here, most of the drainage came across either perpendicular to the property line or maybe at an angle kind of like that. Here's another photograph to show this retaining wall. One of the things that I did today is to go to the Planning Commission and the Building Commission and I asked them if there was a building permit or planning permit, they found no record. So, I don't know if they just can't find the record of it, or if there was no permit. You can see the way this is constructed too, one of the concerns that I have is that eventually these struts that are holding the retaining wall will either rot or whatever is fixing them here, some kind of steel or whatever is holding the struts down, will eventually rot and start to give way. I believe the retaining wall is already shifted a degree or two. It's not serious, but you can see that it's already started to move, you know, over towards my property. At some point, I think it would be a problem, but that may be several years from now. What I'm petitioning is the wooden and the earthen additions along the property line. Here's another picture again, you can sort of see, I have another one that's a little bit easier to see, part of the problem is that the drainage path that was on the Baker's property was fairly wide so that there wasn't like a pinched, you know, path where you had high velocity water going across a very narrow area creating a lot of erosion. What I've got now is only about a one to two feet wide area. In some areas it's only about six inches wide where all of the water goes through. So, you know, I've tried to grow grass there a couple of different times, and every time it rains it just washes the grass seed, the dirt and everything else down the hill. I now also have a water flow that is forced to flow over the last lateral of my septic system. In the hard copy I have in the back the actual sketch of my septic system so you can see where the last lateral is compared to where the property line is. As far as the damage that I've already had this spring, there's a 30 year old 50 foot walnut tree that was in good condition and is now dying. I don't know that it's completely dead, but it's dying. I planted a dawn redwood about a year and a half ago, and it's in the latter part of where the obstruction is, where the obstruction is only the dirt. This spring it got flooded and it died. So, then there's the issue of mosquito habitat. I've got an area that is from where my house and french drain is to about where the end of the wooden part of the obstruction is, that area is still wet since March, the middle of March. It never dries out, it's always wet there. I've actually got little tadpoles that live in the drainage pipe because it's a habitat now. I wanted to show some pictures of the ground erosion. The picture on the right is with water flow after a rainfall, and you can see on the left, I'm sorry, on the left you can see the resulting erosion and lack of grass. Basically, another picture looking down the line, you can see the amount of erosion in this area here is pretty substantial. This is a picture taken this spring when we had a fairly heavy rainfall, but not by any means a major, you know, downpour. You can see right here this disturbance is my foundation drain and french drain bed that I have. If you look at the amounts of water that are here, you know, it's clear that, yeah, there's more water here than here, but you can tell that a substantial part of the water load is what's coming down the blockage, down the retaining wall. It's really not coming from my french bed or the foundation drain. The other thing I wanted to show in this picture is that the last lateral of my septic system goes right through here. You can see that that's all under water during the time of these rainfalls. Another, this is one more view of what this looks like when it rains. At the very end of the lateral, I guess this is where it's got the lowest point in the bed, and, so, this is a problem that I've never had before, but now every time it rains hard I have this black, oozing material that comes out right at the end of that lateral, the end of the last lateral. The respondent filed a complaint with the Health Department, and that's kind of what, you know, ironically I didn't know anything about the Drainage Board, but in talking with the Health Department they told me, well, you know, if you think this is really what's causing this you ought to, you know, look into

this Drainage Board. So, that's how I found out about the Drainage Board in the first place. In the hard copy that I gave you, there's the letter from the Health Department basically confirming that, they did a dye test, and basically they couldn't find any of the dye, but then they said, well, in a big system like yours it's not too unusual that we wouldn't see the dye anyway, but it probably is your septic. When they did their checks, you know, they said that the black discharge seems only to be apparent after a rainy or wet period, as the discharge was not seen during the first four days of the test, meaning the dye test. So, there's nothing wrong with the septic system, under any kind of normal condition, but whenever it rains hard and that lateral is flooded with all of that water that's when I have this problem. This is the picture of the walnut tree, and just to verify, you know, that there was nothing sickly about it, there was nothing wrong with the tree before the incident, the pictures you'll see here. Here's the base of the walnut tree here, and you can see this stream of water that's flowing right over the base of it. You know, it's pretty clear to me that trees don't survive when you have standing water flowing over their base. So, it's my contention that this is what killed the tree. I'm really concerned that the arborvitae trees that I've planted here, eventually they're going to end up with the same problem. They're going to end up either, maybe when they get a little bit bigger and their roots get out a little farther maybe that will be the next thing that I have problems with. There's, I think, 13 arborvitae trees along that line, plus I have two other pine trees that are down by my drain that, you know, are also basically underwater whenever it rains. This picture was taken just a few weeks ago. You can see, here's the walnut tree here, you can see how it's, there's no leaves on it other than these sucker branches that are down at the bottom. So, I think, for all intents and purposes this tree is dead. Again, this is where my foundation drain and my french drain for the front area is, and this amount of water has basically been the same, you know, this is four days after a rainfall and it's still like that. You know, this area between here and here hasn't been dry since like early March. This is the dawn redwood tree that I planted about a year and a half ago and you can see it's also dead. You can see the area here, this is the respondent's property here. This is the area that he built up with dirt to raise his elevation higher than mine, and you can see this area right here is all dead grass, and the septic leakage is in this area here also. I guess, it's important, you know, to determine if this was intentional or not. You know, the respondent has stated to me, early on when I asked him why he was building this, and it was basically to keep your water off my property. So, I think that's a pretty intentional reason for doing this. He's also identified the property line with string and painted a line on the ground. So, it's clear that he knew where the property line was, what he was doing, and the natural elevation of the ground was raised from one to six feet in order to block the natural drainage. Here's a picture, again, that shows how much lower the ground is here than up through here. So, you know, it's pretty obvious that water is going to flow down in this direction. This picture also shows, you can actually see in here, where this wetted area is, that this was part of where the water used to flow. So, instead of, excuse me, instead of going down in this direction like this, now it just comes down here and basically stops. It overflows the berm when it's high enough, but then after the overflow is done, then I just have that stagnant water just lay there. If you see this area right here, this was taken before I planted the dawn redwood, and you can see there's no dead grass here, there's no septic leakage at least that you can from here, and there was none. So, this has all been, this septic problem that I have now has been created by this blockage. When you look at this being intentional or not, you can see what, when he built the wall here, on my side of the wall, still on his property, but here's where the line is right here. You can see that right up to the property line he added another foot or so of dirt, and then put sod on top of that in order to raise this elevation significantly higher than my elevation so that the drainage could no longer go this

way, but had to go basically like that. At some point, he, I think, I don't think he involved the Surveyor, but I don't know that for sure, but in some fashion he determined that this tree that had been planted by previous owners of my property, was actually halfway on his property and halfway on my property. He basically just cut half of the tree down in order to build this wall, because this wall would have been in the way of this branch. Now, in the last three weeks there's been several developments, one being the berm that was added here originally added, just within the last three weeks now he's taken and re-graded this. So, now this part here can drain. So, if it wouldn't have been, I mean, the dawn redwood probably would still be alive if this were originally this way, but that's beside the point. It hasn't really solved any of the problems, this is in the last three weeks since he's re-graded this, this is my septic leakage problem and it's still right there. Then, if you look at the area that's between the wooden part of this barrier, you know, the amount of water is still there, there's no real difference there, the amount of stagnant water is the same. I don't know if this is something that's important for the Drainage Board to know or not, the way this situation kind of got started was back around, I'm not sure about the exact dates, but it was around 2007 when I had a flood in my basement. I didn't know much about what was going on, I had chased out the drainage line and realized that the original owners of my property had taken the foundation drain and basically run it over across the property line onto his property. During the construction of his home, I believe it was probably inadvertently buried. So, the end of my foundation drain was buried. I dug it up and had a new line put here. At the time we had our subdivision developer involved with it, and he also came over and looked at it, and I believed, at the time, that we had an agreement between the Baker's and myself that this was an acceptable place to leave the drain. So, I spent about \$500 redoing the drainage line, and I moved it to here. About a year or so after that, I was on business overseas, and when I came back from a couple of weeks of being out of town, I came back to find that this had been buried, right on the property line. I asked him what was going on with that, and he basically just shrugged and said that, you know, it's on my property and that was as much as I was going to get out of it. So, I spent another \$500 and I moved it down to here and I kept it all on my property. I had a little bit of a grade here. All of this land here basically is all at the same grade, so there's no place to let it come out. Okay, so, anyway, why should the Drainage Board, you know, order this taken down? I know he spent a lot of money on it, but I want to point out that, you know, this has hurt my property value significantly. I have a septic problem now that if I were trying to sell my home, clearly I would have to do something to fix that before I could sell it. I have an area now that is just a mosquito haven, and, again, that's going to reduce my property value. I didn't know whether or not this would be something that you might ask, but, you know, why did I wait, you know, two years or so to file a petition. Part of that I addressed, I didn't really know there was such a thing as a Drainage Board. I had originally gone to a lawyer after I realized that there was nothing I was going to do to convince the respondent to not build this. The lawyer told me that there really wasn't anything he could do until there was damages. So, I needed to wait until it was finished and be able to have actual damages to sue against. So, basically that's why I didn't do this a year and a half ago. I guess, the conclusion, you know, I think that I've shown that this is a significant obstruction of the natural surface watercourse. You know, I'm requesting that the Drainage Board order it be taken down. I guess, that's all I've got. I did, I know it's pretty late and you're probably not interested, but you can tell me if you are. I took a small movie clip of one of the rain storms to show the actual water flowing, basically, over, it flows over this retaining wall, it flows around it, and it flows through it. This retaining wall acts almost like a check valve. Once water gets on the other side of it, it can't get back,

and yet the water will go over it, it will go through it and it goes around it. Is that something that you would want to see?

Commissioner Abell: Do you got it there?

President Melcher: Yep, you got it?

Dan Plocik: Yeah.

(Video clip was shown.)

Dan Plocik: Okay, this is the top of my yard, you can see Old State Road. It's not raining particularly hard right now, but you can still see there's some water where you can see the drainage path. You can see water comes down and around the barrier. As I go down a little bit further, if you look closely, you can see where water basically is going through it and over the top of it. You can see the water streams that are coming from the Baker property onto my property, which is the reverse flow of what the original surface watercourse was. When it's raining hard you can see, everything that's happening here is about, you know, ten times bigger in flow. I think here you can see the direction of water flow coming down. Here's where the erosion really gets to be pretty significant, in this area right in here. I don't know how I would ever be able to grow grass in there. Here you can see the standing water flowing over the tree. That tree is now dead. Here you can see the standing water that's between, and you can see where the ripple is, that's where my foundation drain is. Okay, there's where my septic leakage is, that large puddle. You can see by the water drops, it's not raining that hard right now. Okay, there's where, if you look at this puddle, you can see the black in it, and you can see the flooding that goes up to where the dawn redwood is. I think that's it. I guess, the only other thing that's happened in the last three weeks that you should know about, the Baker's have sold their home. There is some kind of stipulation, I've spoken to the new owner, there's some kind of stipulation that they're responsible for following through with the Drainage Board recommendations, you know, in order, I guess, for the sale to be valid. I don't know the details of it, but there's verbiage in the contract to take care of it. That's all I've got.

Respondent's Testimony:

President Melcher: Okay, I guess, you're the respondents? You're the only ones left.

Lisa Baker: I have pictures. I made copies, if you all would like to see them.

President Melcher: Okay.

Lisa Baker: Do you want to see them?

President Melcher: Yes.

Lisa Baker: We would probably have to show you. Can we come up there so we can kind of show you—

Madelyn Grayson: You can use this microphone here, so we can get your comments on the record.

President Melcher: State your name.

Tim Baker: My name is Tim Baker. This is my wife.

Lisa Baker: Lisa Baker.

Tim Baker: We're here today, because, yes, we did sell our house and we're taking all the full responsibilities of fixing this. We have went to the back of the wall, where you can see in the pictures we have to break that down.

Lisa Baker: Where does this start?

Tim Baker: Okay, yeah, at the top of the street where the ditch is in front of his house and our house, we have had the city try to come out and re-dig our ditch in the front, because when we get heavy downpours, that's where all of the water comes down in between the properties.

Lisa Baker: It's on his—

Tim Baker: That's his ditch in front of this.

Lisa Baker: — it overflows on his ditch.

Tim Baker: So, that's, once that comes over, that runs right down between the wall on the property line. So, when I put this fence up, I did call downtown, they said I could put a fence up. I called the builder we bought the lot from, he let me do it, as long as I did not flood an out building or a structure of a house. So, and then we're two feet or more off the property line. What I did on this wall, I went straight up. That water, it came down before where he showed a picture on the back side of my wall, that hill was always a slope and it went down. Behind my wall, I can (Inaudible) all my water, there's two drains behind that wall. Three foot off that wall there is a french drain and all that stuff goes across my backyard underground and stays off of his property. If you look at some of these pictures here, and, yes, in a heavy downpour out there we do get a lot of rain water. It comes down through there. All that water comes around that wall, yes, the back of the wall where you see at the fence here, this shows the back of the fence, it was higher. Just a couple of weeks ago we tore these down, raked that down, it didn't rain for four days and that's what you see is that raw sewage there.

Lisa Baker: Yeah, we have dates on there so it shows how dry it was the day that we took the water down, because that was suggested by a person who puts the sewage in. He came and looked at it and suggested that we do that too, just to see if it was the septic or if it was us.

Tim Baker: If it was the rain water causing that problem there.

Lisa Baker: Yes, and the dirt was really dry then when we tilled it up, and that's why we did it that day. Three days later, the picture has the dates on there, and that was what was coming out, and there was no rain in between those three days. It was from a Wednesday to a Saturday.

Tim Baker: What you see in that picture, where it's dry, they was gone for two weeks. So, the only one that was home was his son, so if you're getting that much out of a fill bed, I think that lateral has to be clogged or something is wrong with it. He's got a shed sitting across from that, and if you have laterals come out, you ain't supposed to put weight or out buildings on any laterals.

Lisa Baker: Then, this shows, this picture right here shows how much water we get on our property. There's also one, this one here, this water here...that's hard to see, is how much water....it just comes over, and we can never grow grass there. We have tried and tried, but there's so much water that comes over there. Where's the one where it shows the part where it comes over? Oh, right here, on this one here it shows you, we had a part dug out there so the rain, you know, did come within ten to 15 minutes after it rains, all the water is on our property, except for what lays right there. On his, where he put his drain in the last time, it's in a bowl, so the water never dries up because it's sitting down in a bowl. It was like that from the day he had the guy do it. That tree is part on our property. We talked to him about that tree, and he said we could cut it down, then he said he would cut it down. The tree never grew that much anyway. It hardly had any leaves on it, but it always had the walnuts, so, yes, that is on our property. Part ours and part his.

Tim Baker: But, when we built this wall three years ago, I started building it, he did come to me and said, man, that wall turned out better than what I thought, and nothing has been said. This season when grass came up, I seen that raw sewage there, and I went over and asked him, I said, is this your fill bed? He goes, no, I do not think it is. I said, okay, so I went ahead and cut grass, but you can see a six foot path going through my yard where it's dark green. So, I let it go, because we was in the process of, we was going to sell the house. So, about two hours after he, after I called him about that septic, he called me back to the line, I went over there and he said, you know, this, I wouldn't of had this problem if you wouldn't have built that wall. Okay? The wall was being built for our privacy, our safety of my daughter. So, I did not try to flood him out at all. It's just for our privacy, from the Sheriff Department from Vanderburgh County, we needed to just put a wall up for our privacy.

Lisa Baker: It never had anything to do with rain. We never stopped a drain. Mr. Wortman was there. He heard the conversation. He agreed on what we were doing. We took every drain from our house and ran it all the way to the other side of our property so that it would drain over there so we would have some relief on ours because it was coming too close to our basement. So, every drain from our gutters, every drain from our basement and the two drains that we have on this wall to catch the water on our side is all hooked together and ran all the way across our yard to the other side of the property.

Tim Baker: The biggest problem is the ditch in front of both of our houses. I agree on that. Once we get a big downpour it overflows both of our ditches and comes down our yard, but when it comes down my driveway I've got every, I've got drains that collects all my water. But, what you seen at the beginning of his film was, at the beginning of that wall, that's that water coming straight down from this ditch. It overfills on the property line. The county told me that they cannot do, dig that ditch out any more up front on Old State Road because it's so close to the road, if they start doing it, it's going to start washing Old State Road out.

Lisa Baker: We added dirt on our side though, of the ditch, and that's helped us a lot. We like built it up on our side—

Tim Baker: To get the water to go across the front yard and back down to the other side where it's supposed to be.

Lisa Baker: But, also, he said we raised the level on the two feet that we have off of our property, but we did not. We had good grass growing there, the grass was good. We had it leveled off before.

Tim Baker: We had trees there too before. That one picture he showed, them was our four pine trees, and that's how much water goes down through there, and they smothered our trees out.

Lisa Baker: Yeah, before we even did anything.

Tim Baker: On the other side of that fence, that dirt, the only spot it is raised up is where we just tilled up at the back of the property line to get the water to flow through. Other than that, the wall was not made to flood him out. The wall was just for privacy and for protection that we got from the Sheriff Department. It's a long story, don't have time to get into it, but, you know, we have spent, we spent \$5,000 on the wall. We spent money on cameras just to protect ourselves. The wall was not to hurt him or his family. So, that's, we think we have done what we could to the back to get the water to flow and it looks like, now, if you look at some of the pictures the water does go all the way around. I couldn't mow grass for two days in the backyard. He could mow grass two hours later. That water does never approach up past them pine trees.

Lisa Baker: We were concerned too about him saying how wet it is. He waters, he has a well and he waters almost every day. We don't know how he can—

Tim Baker: So, you're going to have standing water right there where all of his down spouts are. There's 14 down spouts on that house, plus the french drains in the front yard. So, if you water all of your plants every day, everything's hooked up, you're going to have water that sits there. It's never going to go away. Plus, when these down spouts, they're dug down in a hole. So, he's filling a hole up of water, so that water's never going to go.

Dan Plocik: May I redress?

President Melcher: Not yet, not yet.

Tim Baker: Well, that's all I really have to say. Like I said, I'm not, it wasn't meant to hurt, or flood him out, it was just for our privacy, what we was told to do. Like I said, I called down to the building, and they told me what to do, as long as I did not flood him out, his property or his out buildings or a building, a structure, and then I asked about this down spouts. They said, yes, he's allowed to run your down spouts to the property line. They have never, water has always sit there, even before this wall was even up. So, that's all I have to say. Thanks for your time.

President Melcher: Any questions at this time?

Commissioner Abell: Who designed this wall?

Tim Baker: I did.

Commissioner Abell: You didn't hire—

Tim Baker: I'm a construction guy, and what that is—

President Melcher: Here, I'm sorry, you've gotta—

Tim Baker: I'm sorry. What that is on that wall, it's a two by six wall, and if you go online to retaining walls, that's what it shows. So, that wall comes down, there's six by sixes every, I think it's four feet on my side of the property. Then my outriggers, they are treated, and they are stuffed with concrete in them to hold the wall.

Commissioner Abell: Are you aware that there is a county ordinance that says if you construct a retaining wall, it has to be designed by a licensed Indiana engineer or licensed Indiana architect?

Tim Baker: No, Ma'am. We called down, and we explained to what was going on and no one, you know, said anything about that. That's why I went to, because where we live at our back yard bumps up to Old State Court Subdivision, there's four houses on the road, and Bill Wortman owns them. I went to him and explained to what I was doing, and he gave me the okay to do what I did, but, like I said, it wasn't to flood anybody, it was just for safety and privacy.

Commissioner Abell: Well, there is an ordinance against your building that wall.

President Melcher: There's also an ordinance about the height.

Tim Baker: Because, okay, then like on the restrictions, well, that's what I asked Bill Wortman about this, because that comes across level with my driveway, so, really that is your natural ground, the level of my driveway. So, really my six foot is a six foot fence. You know, when my driveway's up here, and, you know, I shot everything with a laser, I mean, that's regular ground, and then a six foot fence is really a six foot high fence, but on his side since my lot is up, it's going to be a taller fence on that side.

President Melcher: Okay, any questions? Did you want to—

Dan Plocik: I just wanted to—

President Melcher: Well, just come up to the microphone. If you guys just want to stand over to the side. He might want to say something.

Dan Plocik: What I wanted to address is just a few comments. I do not have a well. I water my grass with city water. I don't water every day. Maybe, you know, this spring has been a little different, because I was trying to get some new grass established. I just recently, in that same area where we have this issue I had a maple tree taken out, so, I had a lot of new grass that I had put in there. So, I did water quite a bit this spring, but it was city water. I wanted to show this one photograph here shows where this land here was raised in elevation. Right here is where, currently, that septic leakage is, right here. You can see there's no leakage there, there's no dead grass here. Right in this area here is where that dawn redwood is. So, I think this picture here is very clear that this was never a problem prior to this blockage. The second comment was that three or four days after it rained I still had seepage. Well, yeah, because three or four days....I showed another picture—

President Melcher: Did you want to see this picture? You can go down and you can see the same picture, on that end. No, it's right here.

Dan Plocik: Okay, the last lateral of my septic bed goes right down along here. This is the area here from where the french drain is, out to this area here. This area here is never dry. It takes three to four days even for the standing water to finally go down. As long as there's standing water here, it's what's filling the lateral.

President Melcher: Did you have another picture you wanted to show?

Dan Plocik: Yeah, I'm sorry, it's right here. This photograph shows that, you know, here's the wall, and on this side of the wall, on my side of it, again, this is the property line right here, this dirt was added. You know, this wasn't added—

President Melcher: I think you said that during your presentation there.

Dan Plocik: He said something about he didn't add the dirt, he didn't raise the elevation on this two foot area. He certainly did. You can see how it's raised there. You can see how it's raised here. This is an interim picture. He did this the whole way down. I think the Surveyor also noticed that the elevation here, you know, is something like a foot higher than what it is on my property. That is not the natural watercourse.

President Melcher: Okay.

Madelyn Grayson: Can we stop a second? The tape just stopped.

President Melcher: We've got to redo the tape.

Madelyn Grayson: We're good. I don't know what happened, it just stopped.

Tim Baker: This dirt that is right here, that was from me when I had a skid loader, I dumped that over and we did go over and shovel that back. When David Hynes came out and shot this with his transit, everything was of flow. Yes, I did add dirt back here because when the water came around it was close to my house and it made it go down farther across the back, but we have solved that problem and raked it.

Lisa Baker: We also, he said we put sod, the only place we put sod was way down here because we didn't want it all washing out.

President Melcher: Okay.

Lisa Baker: That was at the very beginning three years ago.

President Melcher: Alright. Thank you. Jeff?

Surveyor's Summary:

Jeff Mueller: Probably, in summary, you can see that this is a little bit difficult. It was also a situation of trying to figure out who did what. So, what I relied on when I did things was what I could see. I'm sure that, from the Baker's viewpoint they would say that they would like to see the whole wall there. From Mr. Plocik's viewpoint, he would like to see the whole thing taken down. When I looked at things, I looked at, well, you've got water standing at the drain, you've got water standing towards the back, so, part of what my problem, one of my suggestions was, I said, probably part of the wall needs to come down from the fence back, and the 20 foot beyond that.

Now, they may have addressed the 20 foot beyond, because they are talking about some dirt work, but you still have some problems right there where the house drain and where the septic starts. So, I guess, my recommendation when I came through was, I could not recommend taking the whole system down, but it appeared like the last, somewhere in that last 28 feet of wall, part of that wall needed to come down, part of that dirt needed to come down, and then part of the dirt beyond that. Which, part of that dirt beyond that they've already addressed, but that's why I would like to see an engineer put together, a professional engineer with another opinion, come out and say here's kind of what it will do. That's the way I addressed it from the drains down. I addressed it from the drainage down, where the water was sitting, not all the way from where it started to the point on down. So, I guess, you could kind of say my recommendations were in the middle, but they were to address the standing water, because that's the obstruction, the standing water. That's what I looked at.

President Melcher: Mr. Harrison, do you got any suggestions?

Joe Harrison, Jr.: Typically on these matters, we kind of go through a series of steps, and after hearing the recommendations of the County Surveyor, it appears that there needs to be a motion that an obstruction of a natural surface watercourse exists, and that the removal of the obstruction on the respondent's property will promote better drainage of the petitioner's land, and will not cause unreasonable damage to the land of the respondent. So, is there a motion to that effect? I can be more specific as to the specifics of what needs to be removed.

President Melcher: Do you want to do all of these motions, or do you want to go through it so we understand it before we do the motions?

Joe Harrison, Jr.: Okay.

President Melcher: I would rather you do it that way.

Joe Harrison, Jr.: Also, it appears from what the County Surveyor is recommending, that a motion would be needed to, that the obstruction on the natural surface watercourse was intentionally done by the respondents. Intentionally did the work, the installation of the retaining wall and dirt. A motion directing the respondent to remove the obstruction, at the respondent's own expense. A motion requiring the respondent to hire a professional, licensed engineer to remove some or all of the last 28 feet of the northern portion of the retaining wall, as well as some of the fill along the respondent's property adjacent to the retaining wall, as well as the removal of the dead tree, including stump located within the flow line, in order to eliminate standing water and allow for the petitioner's septic system to function properly. Now, it's my understanding that the respondent's have moved, have removed some of the wall already though. The drainage plan—

Jeff Mueller: Excuse me, Mr. Harrison, I think they just removed some of the dirt.

Joe Harrison, Jr.: Oh, okay, I'm sorry.

Jeff Mueller: But, not the wall, sorry.

Joe Harrison, Jr.: The drainage plan by a licensed engineer should ensure that this natural surface watercourse area from the petitioner's backyard where the retaining wall ends, and for a distance of at least 20 feet, will not be impeded, and that the

flow will go naturally. The drainage plan must be developed and submitted to the County Surveyor, you've got within the next 30 days, I don't know if you want to stick with that, 30 or 45 days, I think I would say. The petitioner must grant permission to the respondent's engineer to enter upon their property in order to inspect the area and conduct any necessary survey in order to develop a proper drainage plan. The petitioner must grant permission to the respondent's licensed contractor, whoever that is, to enter upon his property to do the required work necessary to be done to fulfill this order. The respondent's plan shall also include seeding and fertilizing and include erosion control fabric, where necessary, to repair any area to the petitioner's property that may have been disturbed by the obstruction. Looking for a motion that would have the work completed by the respondent, respondent's contractor, by September 15, 2013. Then, a motion to provide a copy of the purchase agreement between the respondents and the buyer of their home, so it can show that the purchaser of the property is going to comply with this, if they do not. So, that's kind of what I was looking at. Also, I was just curious, do you have a closing date yet?

Tim Baker: We're already gone.

Lisa Baker: We've already moved.

Joe Harrison, Jr.: Oh, so you've already closed?

Tim Baker: Yeah, they're already living there.

Lisa Baker: Yeah, it sold in like three days, and they wanted possession.

Joe Harrison, Jr.: So, you've already closed?

Tim Baker: Yes.

Lisa Baker: It was in the agreement when we sold it. It was a written—

Tim Baker: In the written agreement the realtor made us write it all up that we would take care of any problems.

Joe Harrison, Jr.: Okay.

Lisa Baker: (Inaudible. Not at microphone.)

Joe Harrison, Jr.: Okay, so, who's going to do the paying?

Lisa Baker: Oh, us.

Joe Harrison, Jr.: You're going to do everything?

Lisa Baker: Yeah, we agreed.

Tim Baker: It was in the agreement—

Joe Harrison, Jr.: Okay.

Tim Baker: — with the sellers that we have to, whatever was (Inaudible) we would take care of.

Jeff Mueller: Excuse me, Mr. Harrison, won't we need to add a motion then that the new property owners would grant permission?

Joe Harrison, Jr.: Oh, yes, yes. I'm assuming that that would be a part of your purchase agreement, but they would have to sign off on any, you know, any contractor, any engineer, any surveyor, anyone you're going to have in there, you've got to get permission from them to have them come on the property.

Commissioner Kiefer: Can we roll all of those into one motion, but, with the changes that it's the new property owners will grant permission? Or, do we have to do it out in five or six different motions?

Joe Harrison, Jr.: I think we probably ought to separate them out. That's just my own thought.

Commissioner Abell: I would like them separated, because actually I think we've got way too much going on. You know, I don't disagree with our County Surveyor, he's an engineer and he, you know, I'm sure he knows a lot about all of this, but I really think that the first step is, according to county ordinance, that it has to be designed by an Indiana licensed engineer, or an Indiana licensed architect. I think the first thing is to get that report and get it back here and let us see what they recommend that we do, instead of us sending forward cut off 20 feet here, or ten feet here, or whatever. I think we ought to get their report back, let's see what they recommend, and then combine, then make our finding off of that report. I think that would be the first thing to do. They're going to be able to go in and say, here's what needs to be done to force all of the water to the right place for everybody, so that the new neighbors get along with the current neighbors and everybody's happy, and we aren't back here six months from now with a new set of owners that are unhappy with what's going on. I think, you know, you get the licensed engineer, I know it's not going to be cheap to get one, but we could get, base our decision on that report.

Joe Harrison, Jr.: Well, why don't we do this? If you want to go that route, we at least have to have those preliminary motions about the obstructions and all of that, but as far as the plan is concerned we can ask that, you know, a licensed engineer be retained within, you know, and submit a plan by the Baker's to the County Surveyor for review by this Board within a certain period of time, with recommendations on how to remove the obstruction and correct the problem.

President Melcher: I feel more comfortable with that, because I was kind of going that same direction.

Joe Harrison, Jr.: Okay.

President Melcher: That's why I said you go ahead and finish your motions—

Joe Harrison, Jr.: Okay.

President Melcher: —because I thought we would do what Marsha just said, you know, because I think this is really complicated on everybody's side. If I was one of them, I wouldn't know what all has been said after all of these motions.

Joe Harrison, Jr.: Yeah, right.

President Melcher: So, I think there ought to be some kind of plan, that they can see the plan, they can see the plan—

Commissioner Abell: We can see the plan.

President Melcher: — and then we kind of halfway know what's going on too. I think, in fairness, that would be the best way of doing it. Not saying we're taking down 28 feet—

Joe Harrison, Jr.: Right.

President Melcher: — or four feet or nothing. Maybe it all has to come down, and maybe part of it has to come down, but that way it will be passed under a certified person.

Commissioner Kiefer: We also want to make sure—

President Melcher: That way it would protect the new homeowners, but I do think we need a copy of that to our attorney. We just asked somebody else to do it right before you.

Lisa Baker: Yeah.

President Melcher: So, it's the same exact thing. We're going to have to see that to make sure that all of this is still straight.

Commissioner Kiefer: Do we need the current homeowners to be here? I mean, gosh, we're asking them—

President Melcher: Well, I would think the current owners probably should be here and want to be here when they come and make that recommendation.

Commissioner Abell: So would I.

Commissioner Kiefer: Yeah, because I'm concerned, you know, we can't have previous owners make promises for new owners.

Commissioner Abell: He has a question.

President Melcher: Who has a question?

Commissioner Abell: Mr. Baker.

Tim Baker: I was going to say, we did ask them to come to this meeting, and he said he was wanting to stay out of it.

Lisa Baker: Yeah, but he needs to come.

Joe Harrison, Jr.: But, if they need to be here the next time, that may not be a bad idea.

Tim Baker: Okay.

Commissioner Abell: Is the petitioner okay with this?

President Melcher: Do you understand what we're trying to do?

Dan Plocik: Yes.

Joe Harrison, Jr.: Okay.

Dan Plocik: I agree.

President Melcher: Okay. I was going to say something about the owner, the new owners too, because they need to sign off somewhere or something, but I figured that would be—

Joe Harrison, Jr.: That would be a later—

Commissioner Abell: Yeah.

President Melcher: That would be a later decision, because we don't want any problems.

Joe Harrison, Jr.: Well, let's—

President Melcher: So, you're just going to talk about the preliminary motions?

Joe Harrison, Jr.: Why don't we do that—

President Melcher: Not demanding—

Joe Harrison, Jr.: — and as far as developing a plan by a licensed engineer, at their cost, and come back within whatever amount of days you want to give them.

President Melcher: Well, what do we normally give, 30 to 45?

Joe Harrison, Jr.: Yeah, probably ought to be 45, I would say, at least.

Tim Baker: Could it be 30?

President Melcher: Yeah.

Joe Harrison, Jr.: I mean, it can be tomorrow, if you can get it done.

Commissioner Abell: You might find those guys are busy, and you may not get one right away.

Tim Baker: Can we shoot for like 30 days?

Joe Harrison, Jr.: That's fine.

Commissioner Kiefer: Yeah, you can get it done as quickly as you can get it done.

President Melcher: The sooner you get it done, the sooner this will get going. It would be better for everybody, because you're going to get to a point to where we're going to run out of summer.

Commissioner Abell: Why don't we say within 30 days, and then you can call the County Surveyor—

Commissioner Kiefer: If you need more time.

Commissioner Abell: – when it's finished, and he can put it on our agenda.

Tim Baker: Okay.

Commissioner Motions:

Joe Harrison, Jr.: Anyway, just preliminarily, there, if the Board would consider a motion that an obstruction of a natural surface watercourse exists, and the removal of the obstruction will promote better drainage of the petitioner's land and not cause unreasonable damage to the land of the respondent. Is there a motion to that effect?

Commissioner Kiefer: So moved. That's just stating that there's an obstruction, not a solution to the obstruction?

Joe Harrison, Jr.: Right, that's the first step we've got to go. Is there a second?

Commissioner Abell: I'll second it.

Joe Harrison, Jr.: Good.

President Melcher: Roll call vote.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Then, a motion that the obstruction of the natural surface watercourse was intentionally done by the respondents.

Commissioner Kiefer: I guess, I need to understand the word "intentional" again, because—

Joe Harrison, Jr.: Well, because if it's intentional, then intentional means that they did it knowing what they were doing.

Commissioner Kiefer: They knew what they were doing when they were building the fence, but they may have not known that it was going to create a problem.

Joe Harrison, Jr.: But, they—

Commissioner Kiefer: But, they knew what they were doing when they built the fence.

Joe Harrison, Jr.: Right.

Jeff Mueller: Versus, I'm sorry, Mr. Kiefer, versus "unintentional" or "natural" where a log floats down and clogs a pipe up.

Commissioner Kiefer: Gotcha, okay. In that case, I'll make the motion as stated.

Commissioner Abell: I'll second.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: A motion directing the respondent to hire a licensed Indiana professional engineer to develop a plan for the removal of the obstruction and related recommendations with respect to the retaining wall and fill, and that such drainage plan be paid at the expense of the respondents, and submitted to the County Surveyor within the next 30 days, and that such drainage plan be with the intention of not only removing the obstruction, but any other items such as dead trees, or stumps or anything that would impede the flow of water onto the property of the respondent, so that not only the water issues are resolved, but any issues with respect to the septic system of the petitioners are looked at.

Commissioner Kiefer: I'll make that motion.

Commissioner Abell: Second.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: And, that the final, well, let's go further, I'm sorry, that the petitioners, a motion be made to require the petitioners to grant permission to the respondents' engineer, licensed engineer to come upon their property in order to come up with a drainage plan.

Commissioner Kiefer: The problem with that is that they don't own the property. So, how—

Joe Harrison, Jr.: No, I'm talking about them.

Commissioner Kiefer: Oh, the petitioner? Yeah, okay, the respondent, I gotcha.

President Melcher: They still own it.

Commissioner Kiefer: Yeah, they still own it, you're still there.

Joe Harrison, Jr.: Yeah, they're not moving, I hope.

Commissioner Kiefer: Okay, in that case, I'll make the motion.

Commissioner Abell: Second.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Obviously, we're going to need permission, obtained by the new owners, to allow access to anyone who needs to come up, or come on there and develop a drainage plan, as well as any contractors that may eventually have to come upon your property.

Lisa Baker: (Inaudible. Not at microphone).

Joe Harrison, Jr.: Yeah, we're going to have to get some signatures by them allowing all that to happen, but that shouldn't be a problem.

Lisa Baker: No.

President Melcher: Wouldn't that be us, once you get that copy?

Joe Harrison, Jr.: Yes.

President Melcher: Then you can call the new owners and say this is what is trying to be done. That way they're not involved in it.

Joe Harrison, Jr.: Especially if they come to the meeting, you know, that's why it would be nice if they would come to the next meeting and see what might have to happen.

President Melcher: You might explain some of that to them on the phone when you get that copy.

Joe Harrison, Jr.: Sure. So, as far as, one other motion that would be that the Bakers provide a copy of the purchase agreement on their, with respect to their property, to the County Surveyor, as soon as possible. So, is there a motion to that effect?

Commissioner Kiefer: I make a motion that they provide the purchase agreement for the property they sold that's in question. Yeah, I make that motion.

Commissioner Abell: Second.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Joe Harrison, Jr.: Now, as far as the other items about seeding and all of that, I think we'll wait until we get the drainage plan.

President Melcher: Exactly.

Joe Harrison, Jr.: As far as when it should be done, I think we need to wait on the drainage plan.

President Melcher: Exactly.

Joe Harrison, Jr.: All that, I mean, I don't know if there's anything else you want to bring up at this point.

President Melcher: No.

Joe Harrison, Jr.: But, that, I think we need to consult the experts.

President Melcher: I think that's as far as we can go.

Joe Harrison, Jr.: Okay.

Jeff Mueller: Two questions, Mr. Harrison. On all of the permissions, who is going to draft, who is drafting the agreements for the people to sign to give permission? So, that is clear.

Joe Harrison, Jr.: Well, I, if, the petitioners, if you will, if you just want to have a letter or something that you can provide to Mr. Mueller stating that you're agreeable to letting any surveyors or engineers or contractors come upon your property to do the required work, that would be very helpful right now.

Dan Plocik: I'll mail it tomorrow.

Joe Harrison, Jr.: Okay.

Jeff Mueller: And, we'll need the same letter from the new owners.

Joe Harrison, Jr.: Later.

Jeff Mueller: Well, no, we're going to have the engineer on both pieces of property.

Joe Harrison, Jr.: Well, he's going to hire a licensed engineer, the Bakers are, so you're going to have to get something from your new purchasers of the house who say it's okay for your Indiana licensed professional engineer to come on the property. When you get that, give it to Mr. Mueller as soon as possible.

Jeff Mueller: That's what I'm say, we need a letter from both parties.

Joe Harrison, Jr.: Right. That's fine.

President Melcher: I thought you were going to do that letter. I mean, get a hold of the new owners.

Joe Harrison, Jr.: Well, I'll talk to them, but I just want him to get that immediately.

President Melcher: No, no, I understand getting that part. They're agreed to that, but I think once—

Commissioner Abell: They can send it to you.

Joe Harrison, Jr.: No, I don't think we need anything formal. I don't want to, I mean, I think if they just say I consent to have the Bakers' engineer, licensed engineer and any contractors come upon on property to do the required work ordered by the Drainage Board. Okay?

Lisa Baker: (Inaudible. Not at microphone.)

Joe Harrison, Jr.: If you have any questions, talk to Mr. Mueller. I'll get a hold of you and we'll work out some other language, okay? But, we just want to have permission so it has your property address, you know, and signature and dated and have it signed by, if it's a husband and wife, have it signed by both of them.

Jeff Mueller: One other question, Commissioner Abell brought up about the professional engineer design the retaining wall.

Joe Harrison, Jr.: Right.

Jeff Mueller: Is that covered in the—

President Melcher: Whatever he thinks it's going to take to—

Jeff Mueller: Okay, I just wanted to make sure that we...while we're making the checklist, that we've got everything covered.

Commissioner Kiefer: I think the question is, is that fence, was it built in compliance with, even if there was no obstruction, you know, was it built in compliance with local codes and ordinances? So, the question is—

President Melcher: Well, he's the one that's going to be recommending that.

Joe Harrison, Jr.: Yeah, I think the drainage plan—

Commissioner Kiefer: I know, but—

Joe Harrison, Jr.: — if the drainage plan, to me, if the engineer says there's some real problems with the whole wall, or there's going to have to be some—

Commissioner Kiefer: Yeah, but, I guess, my, yeah, but I think it's a separate issue. I don't know if it's addressed by the Drainage Board.

Joe Harrison, Jr.: Yeah, I don't know.

Commissioner Kiefer: Does the Building Commissioner of Vanderburgh County need to take a look? I mean, somebody, if he says, look, there is no obstruction, it's perfect, there's still a local ordinance that says the fence can only be so high, there's certain ordinances regarding the retaining wall. Now that it's brought to our attention, do we need to have the Building Commissioner or somebody else look at that?

Joe Harrison, Jr.: We've already determined, you've already determined that there's an obstruction. So, that's done.

Commissioner Kiefer: I know that. I'm just saying, but the fence, it's a whole separate issue from that, and is that within our authority to say, hey, we need to pass that on to the Building Commissioner or Area Plan or whoever addresses that.

Commissioner Abell: I would think, if they hire one of our local architects, engineers who do this day in and day out, they have a copy of the Vanderburgh County building code, and one of the things they're going to say is, this fence is too high, it's not in compliance with the code.

President Melcher: They've got to do everything within code.

Commissioner Abell: They have to do it within code.

Joe Harrison, Jr.: Right.

Commissioner Kiefer: Well, I mean, that's all I'm asking. So, it sounds like it's addressed then.

Jeff Mueller: Okay, that's all. I just wanted to make sure.

Commissioner Abell: And, you'll probably talk to them, Mr. Mueller, so you can explain to them, although I know that if it was one of the engineering companies that we deal with, we wouldn't have to explain anything to them, but that they do have to make sure that whatever they suggest, it is done by code.

Jeff Mueller: Yes, Ma'am. I will do so.

Commissioner Abell: And, their suggestion would be, you know, if the fence is not in code, they would have to suggest that it be brought into code.

President Melcher: That's right. That's what we're going to get. Anything else? All the motions are made?

Commissioner Abell: I think so.

President Melcher: I think we're done with this issue for tonight. Then, as soon as we get that information, then we'll set a date for another hearing. If you could get us that letter, and you could get that, then we could get moving. Any other questions?

Other Business

President Melcher: Alright then, before we finish then, do you got any other business?

Jeff Mueller: I have nothing else, Mr. Melcher?

Ditch Maintenance Claims

President Melcher: Do you got any claims that we've got to sign tonight?

Jeff Mueller: No, sir.

Public Comment

President Melcher: There's no public out there, so nobody else wants to make any more comments.

Jeff Mueller: I don't want to make any comments.

President Melcher: We'll stand adjourned.

(The meeting was adjourned at 7:55 p.m.)

Those in Attendance:

Stephen Melcher
Jeff Mueller
Jim Farney
Candice Huston
Lisa Baker

Joe Kiefer
Joe Harrison, Jr.
Tom Norton
Dan Plocik
Others Unidentified

Marsha Abell
Madelyn Grayson
Kirk Reising
Tim Baker
Members of Media

**VANDERBURGH COUNTY
BOARD OF COMMISSIONERS**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
JULY 23, 2013**

The Vanderburgh County Drainage Board met in session this 23rd day of July, 2013 at 6:07 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board, July 23, 2013. It's about seven after six.

Pledge of Allegiance

President Melcher: So, if we could all stand for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the July 9, 2013 Drainage Board Meeting Minutes

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

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Kolb Ditch Structure Damage

President Melcher: Kolb Ditch structure damage.

Jeff Mueller: Yes, I've got just a couple slides here I wanted to show you here real fast. On June 24, 2013, that's that Monday when we got, pick your choice, I think the official number I got was 4.4 inches of rain, Kolb Ditch backed up and ran over this structure. I'll show you where this is. That's I-164 right there, you've got Fuquay over here, Pollack Avenue would be down here. This is kind of just north of, kind of northwest of Angel Mounds. So, the Kolb Ditch comes through and actually goes through the pond, and the damaged area is this area right here. I just want to show you a couple of pictures and tell you that we're aware of it. One of the neighbors made us aware of it. What happened was the water came back, I think what may have been happening is we may have had some piping on that structure already, but the water is supposed to go through this pipe, and then if it's high there's a gate to keep it from coming in. So, the gate was shut, the water came up so high it came back around and it came back and washed along the pipe. So, we had some washout there. This shows you kind of the aftermath. This area right here, you really don't want to walk on it, it's actually tunneled on both sides of the pipe. You really

can't get across it either way. You're kind of seeing a little bit of the holes, but those go all the way through. Again, there's the pipe, there's where the water came through on both sides. Another picture of the same pipe from the head wall and where it washed around. The material that washed out. I wanted to kind of show you that, you know, unfortunately, in that part of the county is a very sandy soil, and, so, that probably didn't help things any. So, anyway, I just wanted to make you aware of it. We're going to be looking at some repair options and coming back to you with some estimates on what we need to do on that. Just so you know, the Kolb Ditch accounts has just under \$20,000 in it. The work that we had put out for this year already was \$5,000. So, depending on how much, I don't know how much it's going to cost to repair it, but, right now we have \$15,000 in that account. So, I wanted to make you aware of that.

Commissioner Abell: Is this our obligation? Isn't this a State road?

Jeff Mueller: It's on a legal drain. This was put in by us, back in 2009. Is that correct, Linda?

Linda Freeman: Yes.

Jeff Mueller: Yes, it's our structure.

Joe Harrison, Jr.: And we collect, you know, ditch funds, maintenance funds.

Linda Freeman: You know, the wall, that's the State right-of-way line, basically, that wall that was there.

Commissioner Abell: The metal wall?

Linda Freeman: Yeah.

Jeff Mueller: Yeah, about ten feet off of that, yeah.

Joe Harrison, Jr.: Up against there. So, it's only been in place since '09?

Jeff Mueller: Yes.

Linda Freeman: Yeah.

Joe Harrison, Jr.: Oh, okay. Well, that's the newest one you've got, isn't it?

Linda Freeman: As far as pipe structure that's been put in a legal drain?

Joe Harrison, Jr.: Yeah.

Linda Freeman: Yes.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: Okay.

Jeff Mueller: But, you know, we had the kind of rains that would challenge anything.

Joe Harrison, Jr.: Sure.

Jeff Mueller: That's all I had on that, unless the Board has any questions. Like I said, I just wanted to make you aware of it and let you know about it.

President Melcher: Any questions? Okay.

Stockfleth Ditch: Additional Mowing Request
--

President Melcher: Additional mowing on the Stockfleth Ditch.

Jeff Mueller: I just wanted to show you this picture right here. You've got some pretty nice cattails in it. This mowed area, this would be the VA Clinic right over here. This is up off of Vogel Road. The area that we're talking about, the Stockfleth Ditch, in our current plans this year, what we have contracted out was mowing between the Lloyd and Virginia. We were supposed to spray from here on up. It's my opinion that we really need to mow that. Just to kind of let you know, I mean, now that I'm getting my feet on the ground a little bit, I'm probably a little bit more of a mowing person. You know, next year we may look at doing some more mowing, or at least my recommendation will be to do some more mowing to try to keep some of these cattails and some of this other stuff under there. Anyway, the contract for the mowing that we had was for \$985, which was .597 per foot. What I would like to do is request if we could mow the additional 6,363 feet, which would be about another 2,800 feet, \$2,800 cost, for a total cost, for a total payment of \$3,800. The fees for that would come under the East Side Urban. We've got \$252,000 in that account. This year we're scheduled to spend about \$13,000, so we do have the money to spend the extra \$2,800. So, it's McCullough that has that contract for the existing mowing. So, what I'm requesting is that we would be able to ask McCullough to mow that additional 6,300 almost 6,400 feet at the same rate as what he quoted us.

President Melcher: Okay, and then next year are we going to add that to the list?

Jeff Mueller: Yes.

President Melcher: Okay.

Jeff Mueller: And, probably, Mr. Melcher, I may even, on some of these, not only add it to the list, but look at mowing them more than once, maybe twice.

President Melcher: Okay. Does anybody have any questions? We'll need a motion to approve it.

Commissioner Abell: So moved.

Commissioner Kiefer: Oh, we need a motion...is he spending money?

President Melcher: Yes.

Jeff Mueller: Yes.

Commissioner Kiefer: Well, I mean, he's not asking for additional money is what I'm saying.

Joe Harrison, Jr.: You've got it in the budget.

Commissioner Kiefer: What's in your budget?

President Melcher: It's in the east side ditch fund.

Jeff Mueller: Yeah, it's in the east side ditch funds, but, yeah, I'm asking to spend \$2,800 out of that.

Commissioner Kiefer: I just want to make sure we're not spending additional dollars, but it's in the budget. So, I'll second—

Joe Harrison, Jr.: Make a motion.

Commissioner Abell: I made a motion.

Commissioner Kiefer: Somebody, you made a motion? I second it.

President Melcher: Okay, we got it.

Jeff Mueller: Okay.

President Melcher: Do you want to roll call vote?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Huang-Huston Drainage Obstruction Petition Update
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Jeff Mueller: The next thing is on the Huang-Huston drainage issue. I will tell you that Linda has been working diligently on this. So, rather than me repeating everything that she's told me, I'm going to let her come up and talk to you about it, because she has worked hard on this project. So, if you don't mind, I'm going to let Linda come up and tell you a little bit about just where we're at on it.

Linda Freeman: We have the sellers realtor, which is Ms. Huston's realtor, Brian Walton. We have the purchaser's realtor, oh, gosh, I've gotten you backwards, I'm sorry. Brian Walton is the buyer's realtor. Clayton Daugherty is Ms. Huston's realtor. Then we also had the gentleman that wrote the agreement, and we also have the buyer here. So, if they have any questions they could address the Board, and, you know, alleviate the concerns that we have. We have James McCullough that's willing to do the work at twelve thousand....dang it, of course he's the last one I've got here. I've been going through these papers out in the hall. \$11,924 to do the drainage improvements that the Board approved last year for the Candie Huston-Huang

drainage modification. She has, we have a set of her drainage encroachment agreement that we've reviewed, Joe's reviewed, and Madelyn has that with the filing fee to get that recorded. Ms. Huston was able to arrange the \$350 that she needs to buy the easement from Tim Scheu to allow us the piping to go north to Buckridge Trail. There's a little strip of land that Tim Scheu owns between her property and Buckridge Trail. So, we've got an agreement for that. She's potentially going to do that tomorrow?

Candie Huston: Yes.

Linda Freeman: Okay, and, so, then we could move forward with getting the work done.

President Melcher: Any questions?

Linda Freeman: Then, she, it is in, they've all talked about the \$12,000, basically I'm going to say \$12,000 that's needed to get this work accomplished. It's in the purchasing agreement. She's, I'm basically thinking they're ready to close.

President Melcher: So, Joe, how would be the best way to handle this? Would it be have every one of them on the record say that?

Joe Harrison, Jr.: Pardon me?

President Melcher: Have everybody on the record say that they're in agreement to all of this?

Joe Harrison, Jr.: Yeah, I don't mind, if all of you would like to come up and just say, you just heard Ms. Freeman recite what she believes to be the game plan, and we would want you to state your name and what your understanding of the situation is and when you think it's going to be completed.

Clayton Daugherty: My name is Clayton Daugherty.

Joe Harrison, Jr.: Okay.

Clayton Daugherty: Not, really to be honest with you, I'm not sure when it's going to be completed. We have a closing date extended to August—

Joe Harrison, Jr.: Who are you with again?

Clayton Daugherty: ERA First Advantage Realty.

Joe Harrison, Jr.: And you represent whom?

Clayton Daugherty: Candie Huston.

Joe Harrison, Jr.: Okay, and she is the seller?

Clayton Daugherty: The seller, yes.

Joe Harrison, Jr.: Okay, go ahead.

Clayton Daugherty: We have a closing set up to be no later than August 30th. We've still got to go through inspections and that. We wanted to be sure that everything got ironed out to have all of those done. She does have the funds, she will have the equity to make these repairs.

Joe Harrison, Jr.: And, the contractor is going to be, what's the fellow's name again?

Linda Freeman: McCullough Land Improvement.

Joe Harrison, Jr.: Okay.

Linda Freeman: James McCullough.

Clayton Daugherty: My question would be how do you want to handle this payment? As far as—

Joe Harrison, Jr.: Well, I would hope that it comes out of escrow.

Clayton Daugherty: Okay, well, I didn't know if there was going to be a tax lien.

Joe Harrison, Jr.: We just want proof that it's paid out of escrow.

Clayton Daugherty: Okay.

Joe Harrison, Jr.: Then we know that there will never have to be other issues with the Drainage Board, as far as liens or anything like that.

Clayton Daugherty: Okay.

Joe Harrison, Jr.: We'll be satisfied if you're satisfied. Obviously, Mr. Mueller or Linda will be out there watching to make sure the work is done properly.

Clayton Daugherty: Okay.

Joe Harrison, Jr.: Okay?

Candie Huston: Hi, I'm Candie Huston. I'm the seller of the home. I'm ready to move forward, get this taken care of. I've got enough in escrow to be able to pay for the—

Joe Harrison, Jr.: Required work.

Candie Huston: – required work, yes.

Joe Harrison, Jr.: Okay.

President Melcher: Okay.

Brian Walton: Brian Walton, I represent the buyer. I'm with F.C. Tucker Emge. My only question was, moving forward, being that this encroachment agreement is filed, once all of this stuff is in place and set in stone, will the buyer incur any kind of repercussions? Moving forward, if the work, if the drainage work weren't done properly? So, say in two or three years from now, somebody comes back and says, hey, that drain was built a little shorter than it was supposed to, who would that fall on, the land or the buyer or the contractor?

Joe Harrison, Jr.: Well, they're going to go out, the Surveyor's office is going to look at the way the work is done, correct? After it's done, and at least at that point you'll know that everything appears to be in order, if it is in order, correct?

Linda Freeman: Right, and it's like I told Brian, talking to him on the phone, as long as his buyer, the new homeowner, whoever it may be, as long as they don't make any modifications or do any further encroachment into the easement, then that's fine. If there's a failure of the retaining wall or he needs to replace the fence or something, that's his property, as long as he doesn't encroach any further. You know, this is all on record, the drainage plan, the encroachment easement will be on record here soon. Like I said, as long as whoever purchases the home doesn't do any modifications, they should be fine.

Brian Walton: Okay.

President Melcher: And, Linda, you're going to take pictures of it complete? Well, that way we can see pictures before and after.

Linda Freeman: Right, and then the—

President Melcher: That protects everybody.

Linda Freeman: Right.

Joe Harrison, Jr.: Mr. Walton, is this the potential purchaser?

Vikram Daga: Yes, sir, I am.

Joe Harrison, Jr.: Okay, what's your name?

Vikram Daga: My name is Vikram Daga.

Joe Harrison, Jr.: And, where do you live now?

Vikram Daga: I live on the west side on 816 North Boehne Camp Road.

Joe Harrison, Jr.: Okay, and you plan on moving into the home right after closing, hopefully?

Vikram Daga: Well, after closing there is a 15 day of gap there. Candie wants to stay there for awhile to move all of her things out.

Joe Harrison, Jr.: So, maybe by the end of September?

Vikram Daga: Well, before then, I think.

Joe Harrison, Jr.: Okay. Are you comfortable with the discussion that you've just heard about the drainage issues, about repairing those issues?

Vikram Daga: Yes. My understanding is the easement encroachment has, the variance has been filed and we're going to accept that, and that the drainage issues has been planned according to the codes, whatever it is. So, I am fine with that.

Joe Harrison, Jr.: Okay.

Vikram Daga: I just need an assurance that in the future we'll have everything resolved.

Joe Harrison, Jr.: Well, and, again, as they indicated, the County Surveyor will go out there after the work is done to make sure it was done properly. If it's done in accordance with the plan everything should be in order down the road. That's why they have plans.

Vikram Daga: That sounds great.

Joe Harrison, Jr.: We'll see what happens.

President Melcher: We just wanted this meeting, to get everybody here to agree. That even protects you as the new owner. Okay.

Jeff Mueller: While we're on record, when will we actually be starting the physical work?

Linda Freeman: She will need to go to Andy Easley's office and pay for the easement from Tim Scheu, and then Justin Shofstall at Easley's office is going to prepare the paperwork for the easement and bring it down for recording. Then, the other thing is, I need to let James McCullough know, of McCullough Land Improvements that it's okay to go, because he's got to order a couple of things, it's about a week lead time from what he told me. So, basically, as soon as, you know, basically about a week out to get started. Then, about a week to complete the job. The other thing that I didn't mention before is that he has been in contact with the Huang's, because the Huang's have their fence and their utility shed in the easement also. So, I suggested to Huang, I said he's more than welcome to hire anyone he wants, but James McCullough would be there to do the work for Candie, so if he could coordinate or come to an agreement with Mr. McCullough as far as pricing and stuff, Mr. McCullough could move the yard barn out of the way, and, Mr. Huang, from what I understand from talking to Candie, is that he is moving the fence. Yeah, and that's rain. Drainage Board, it's raining. How appropriate.

President Melcher: Well, I think he knew he had to move the yard barn and that. He wasn't going to move it if nothing was going to happen.

Linda Freeman: Right, he's been a little hesitant, but I've been e-mailing with him—

President Melcher: Okay.

Linda Freeman: —and, then, like I said, he has talked to McCullough and they're, that way it's all kind of coordinated. So, McCullough's not waiting on whoever Huang hires to move the yard barn. It's all going to be a coordinated effort on everyone's part.

President Melcher: So, you think in a couple of weeks it should be starting?

Linda Freeman: Yeah, yeah, now that would just be weather and—

President Melcher: I understand that.

Linda Freeman: So, yeah, we're hoping that it's completed by about, no later than September the 15th to get a good stand of grass in the easement for, obviously, to be able to handle the drainage.

President Melcher: Okay, any questions by anyone?

Madelyn Grayson: We will need a motion to approve this drainage easement encroachment agreement.

Linda Freeman: Oh, we've got the encroachment agreement, yes.

Joe Harrison, Jr.: Yes, we need a motion to approve the drainage easement encroachment agreement.

Commissioner Abell: I'll move.

Commissioner Kiefer: Second.

President Melcher: Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes, thank goodness.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: You don't know how bad I want it done too. Yes.

(Motion approved 3-0)

Commissioner Abell: Linda, what are you going to do now?

President Melcher: No, she's not done until it's done.

Joe Harrison, Jr.: You'll give us a report at the next meeting?

Linda Freeman: Yeah, I'll keep you guys, I will keep everyone apprised of how the progress is going and where we're at, and then I can let James know that it's a go on the mowing for Stockfleth Ditch, and then also for this project. So, thank you very much.

Jeff Mueller: (Inaudible. Not at microphone.)

Linda Freeman: Yeah, hopefully yeah.

Invironmental Technologies/American Red Cross Drainage Issue

President Melcher: Okay, next....are you ready?

Jeff Mueller: The Invironmental? Yes.

President Melcher: Okay, Invironmental Technologies LLC/American National Red Cross. I guess they're all here too?

Jeff Mueller: Yes, I understand there's parties from both here. I think Mr. Martin would like to address you.

Rick Martin: I think I have good news. We met out in the hall earlier, and I think we have a resolution or a solution to the problem here and an agreement. My client has come up with a couple of slight modifications to his plan, which I think will address the drainage issues and really render the need for an easement moot. The first thing that he's done, and I think was just something that came up as a necessity, the back part of his parking lot, if you recall, we had a wall along, a retaining wall along the edge of his parking lot along the property line with the Red Cross. By necessity, that wall has now had to extend around the corner of the parking lot and along the back edge of his property up to the culvert. I've got a drawing here I can show, if you want to take a look at that. I can show a little closer here. Here's the original wall, what we had to do by necessity was essentially extend the wall here back to the drainage culvert and around that, to keep the dirt and such from the hill, this is all uphill from here. So, we had to hold that all back from coming down on his parking lot. So, that was the first part of the proposal. The second part of the proposal.....oh, thank you. The second part of the proposal that I think will address the drainage issues from the Red Cross, and we discussed that with them, is he intends to put a surface curving, similar to what's on the side of state highways, essentially along the retaining wall here, and that will be below the grade, at or below grade from the Red Cross' parking lot, to basically handle any water, and it will be sloped down along the wall here, curve around the back, and then dump into the culvert back here at the back end. So, rather than an underground structure here to feed from the existing drainage structure here, it will be surface and come around to the back. It's my understanding the Red Cross would then fill in this existing drain structure, since it would not be necessary anymore.

Commissioner Abell: (Inaudible. Microphone not on.)

Rick Martin: Mike, do you want to describe exactly what it is? My client can probably describe the nature of it a little better.

President Melcher: State your name first.

Mike Brady: Michael Brady, Invironmental Technologies. What was the question, I'm sorry?

Commissioner Abell: Is that just going to be like a little canal? You're just kind of—

Mike Brady: A gutter is a better term.

President Melcher: Gutter.

Commissioner Abell: Oh, okay.

Mike Brady: Commissioner, not dissimilar from what's on the side of the road on Locust Creek Drive.

Commissioner Abell: Okay.

Mike Brady: From, the road crowns and then there's a guttering at the edge of the road. It's very similar to that is what I've got in mind. I think this will solve the issue with the easement, because there won't be a need for an easement. The water will naturally drain to this gutter, and then the gutter will direct it to the drainage culvert that we have in the back of the property on the south side of the property.

Commissioner Kiefer: Jeff, are you satisfied with that arrangement?

Jeff Mueller: As long as we could put a couple of things on record, I guess. I mean, first of all, I prefer open versus pipes any day, but I just want to make sure that when we do get the gully washer, that if it goes over the gutter that we're not back in here saying well their water is now on my parking lot. You know, I think we want to feel comfortable that if everybody agrees to this, that we're agreeing to it and, you know, we're not going to say, well, now all of a sudden we have too big of a rain, or now all of a sudden his tree is up here blocking it and our water can't get across here anymore. So, we somehow need to make sure that both sides understand that once this is put in, that, you know, we're going to work diligently to keep it filled in, I mean, keep it working, and that we're not going to be pointing fingers later on saying, well, you guys approved this, but, now all of a sudden water is coming over the wall. Or, you approved this and now it's blocked and the water can't get there. So, that's my only concern, as long as we can cover that concern, I can live with it.

Commissioner Kiefer: Mr. Norton?

President Melcher: I was going to get him up.

Tom Norton: My name is Tom Norton. I'm the local attorney for the Red Cross. Looking at their proposal I can't say that we have any real objection to it. Although, if you'll recall what we were proposing initially was to have a buried drain in their 12 inch drain and to essentially take water in the same direction as you see on that drawing. A conflict arose between, I guess, the central counsel for American Red Cross and the Environmental people, and there are some issues back there I'm not even aware of as far as some easement questions, but, having said that, they do not feel disposed to give us an easement to go in and establish the drain in that manner. So, if you're asking me to say that I agree to it, per se, no, I don't have a problem as long as....our biggest issue here is that we don't get standing water on our driveway. If this accomplishes it, we're going to be all happy and cheesy and not have any problems with it. The fact that the other, the neighbor is bearing the cost of doing it is a plus to us too. So, to that degree I don't have an issue with it, as long as the powers to be, you know, that that qualifies as an adequate drain. We don't plan to do anything from our side, because our driveway basically goes right to the property line. So, there's not a lot we can do. Their point's well taken, if there's some bad work done on the landscaping that ends up impeding that water getting to that drain, that will be a problem, but I would assume Mr. Brady's going to try to assure you that that's not going to happen, and work with his contractor to do that. What we're looking at, I think what we're seeing here tonight is probably just a slight modification to the original plan. As I understand it, none of this existed in the original plan, this

is being kind of added to the drainage plan for the area, and that's why we wanted to go on record of it. Frankly, I don't have a dog in the fight until I have an obstruction that puts water on my property. Until that occurs, I don't really have a basis to make an argument anyway.

President Melcher: Joe, what do you think? From our standpoint.

Joe Harrison, Jr.: I think they're asking for a modification of the plan that was originally approved, I think back in March. Mr. Norton, who represents the American Red Cross is not objecting to that change. You know, I think he's reserving the right to complain, down the road, in case there's a reason to complain, but as far as what's being proposed, his client does not have a problem with the amendment to the drainage plan. So, Mr. Mueller, is that your, am I hearing it the same way or not?

Jeff Mueller: I think so, and I think from a common sense viewpoint, correct me if I'm wrong, Mr. Brady's going to want to keep that open, because if he doesn't—

Joe Harrison, Jr.: He's going to have a problem.

Jeff Mueller: — the water's going to come over the wall. So, you know, that's the advantage is that, you know, I mean, well, the water's coming down, it's going to cross and go down this way, well, if there's a bunch of stuff blocking it, it's going to come over his wall and be on vehicles that are parked in his parking lot. So, like I said, it's going to be to his advantage to keep that open. You know, so, I mean, it's a common sense approach, it's like I'm saying, I just want to make sure that everybody understands the common sense, and that we're not in here a year from now pointing fingers again. So, that's where I'm trying to get to. As long as we feel comfortable, if everybody feels comfortable.

Joe Harrison, Jr.: It sounds like they do at the present time.

President Melcher: Isn't this gentleman the contractor? Aren't you the contractor on this?

Tom Norton: This is Kirk Reising of Bill's Plumbing.

President Melcher: Okay, could you come up?

Tom Norton: He's our expert in which way it flows.

President Melcher: No, just come up and state your name again, and, basically what you're hearing is they want to make sure that the grass is back right and everything. So, I want to hear from you that you're saying you're going to make sure that it's done right.

Joe Harrison, Jr.: No, no.

Rick Martin: I think there's a misunderstanding.

Joe Harrison, Jr.: I think he was the contractor for the Red Cross.

President Melcher: Oh, I'm sorry.

Rick Martin: The current plan is that my client's contractor will be the one to put in the guttering--

President Melcher: Okay, then that was my fault.

Rick Martin: --and the landscaping and the grass.

Kirk Reising: They've written me out of the picture completely.

Rick Martin: Sorry.

Mike Brady: Not really sorry, but the, as far as the dirt and the shrubbery and the grass, that's my property, I mean, my site plan for the Planning Commission shows "x" number of shrubs, it doesn't say anything about grass, but, you know, if I want to put potted shrubs in there in the gravel, you know, it's no big thing, because there is a drainage tile below, at the bottom of the wall too. My plan here is to gutter the water so that it doesn't come into my parking lot. Is the gutter going to be big enough to accommodate, you know, what happened to the Kiefer Road Ditch? No, no, it's not. You know, if there's a gully washer, it's probably not going to be enough, but for 99.9 percent of the drainage that's going to come off of that parking lot in the standard course of a rain event, it will handle it. So, I've got an engineer who this idea was his, not mine. I mean, I liked it when I heard it, because it made a whole bunch of sense.

Commissioner Kiefer: I'm going to make a motion to approve this amendment as stated.

Joe Harrison, Jr.: Can we keep a copy of the drawing as well?

Mike Brady: Sure.

Joe Harrison, Jr.: Okay.

Mike Brady: It's just a marker on the original site plan, that's all.

Rick Martin: Yeah, it doesn't actually show the guttering.

Joe Harrison, Jr.: Well, maybe Mr. Mueller can mark it up a little bit, and then we can include it in the record.

Mike Brady: Okay, that's fine.

Jeff Mueller: I don't know what you want me to mark up.

Rick Martin: If you want to mark on there, Mike, where the gutter is going to go. That probably is what we need to show.

Mike Brady: Well, it's basically where the pipe is going to go. It's going to start here, it's going to run along here and drain. This will be guttered.

Jeff Mueller: Okay, so, we'll right "gutter" on there. Okay, alright. The water is to flow this way and that way, like it was before.

Mike Brady: It will flow naturally.

Jeff Mueller: Naturally, right, right.

President Melcher: So, is everybody clear?

Commissioner Abell: I'll second the motion, and include with the motion all of the discussion that's gone on to be a part of the minutes.

President Melcher: Alright, do you want to call the roll?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: Thank you.

Rick Martin: Alright, thank you.

Joe Harrison, Jr.: Stay dry.

Commissioner Kiefer: Hope to never see you guys again.

Madelyn Grayson: Jeff, can I get copy of that map from you?

President Melcher: When you get it done.

Jeff Mueller: I'll make copies and bring it down to you tomorrow.

Plocik-Baker Drainage Obstruction Petition Update

President Melcher: Okay, update on the Plocik-Baker drainage petition.

Jeff Mueller: Okay, the only thing there is, you know, we're still within the 30 days, and I understand that they've got an engineer and he's working on it.

President Melcher: Okay.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: And, then the Burkett-Moore drainage petition.

Jeff Mueller: That was due Thursday. They sent me something, I did request some additional information. So, I haven't gotten that back yet. When I get that, I will meet with the Burkett's, because that was the next step was that they were to do an

engineering plan. I was to take it to them, explain it to them, make sure they had no qualms, and then to be able to move forward. So, like I said, Mr. Moore has hired an engineer. He did submit something to me, I just asked for a couple more things to it. So, he did meet the original 30 day deadline. I'll keep after him to make sure I get something this week.

Other Business

President Melcher: Okay, do you got any other business?

Jeff Mueller: No, sir.

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims. Do we have any tonight?

Jeff Mueller: We don't have any claims tonight.

Public Comment

President Melcher: There's nobody left for public comment, unless the news media wants to comment. No? Okay, I'll take a motion to adjourn.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: We're adjourned. Thank you.

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

Those in Attendance:

Stephen Melcher	Joe Kiefer	Marsha Abell
Jeff Mueller	Joe Harrison, Jr.	Madelyn Grayson
Linda Freeman	Clayton Daugherty	Candie Huston
Brian Walton	Vikram Daga	Rick Martin
Mike Brady	Tom Norton	Kirk Reising
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
AUGUST 13, 2013**

The Vanderburgh County Drainage Board met in session this 13th day of August, 2013 at 6:30 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Drainage Board. It's now 6:30.

Pledge of Allegiance

President Melcher: If we could all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the July 23, 2013 Drainage Board Meeting Minutes

President Melcher: Okay, we need a motion for the minutes of the previous meeting, a couple of weeks ago.

Commissioner Kiefer: Motion to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay.

Drainage Issues @ Heinlein-Baumgart-Burch Place

President Melcher: Next is the drainage issues on Heinlein-Baumgart-Burch Place. That's a mouthful.

Jeff Mueller: Quite a mouthful. Let me kind of draw a full picture up here. Just give me one second.

President Melcher: Okay, I'm taking out the Heckel and Green River Road.

Jeff Mueller: Yes.

President Melcher: We're not hearing that tonight.

Jeff Mueller: Okay, I'm sorry. The first thing is was to just kind of bring you up to date a little bit. As you're aware, on June 24th of this year, Monday we had an extensive amount of rainfall. One of the problems with some of that rainfall was, just north of the airport along Heinlein Road there were at least three or four businesses that had water and some mud in some of their buildings. A combination of factors, one is this

area right here, this hillside and that is where the airport has removed trees and their removing some dirt there, combined with this ditch that runs along Heinlein Road and goes underneath into this creek right here. It's a very narrow ditch. We've been, I've been dealing with, well, myself and John Stoll had met with the airport, we also met with some of the business owners, most recently on August the 8th. What we're doing is we're trying to look out there and see if there's some things that we can do to help improve the drainage out there, to make sure those businesses don't have that problem again. So, I just wanted to make you aware of that and let you know that we're working on it.

President Melcher: Did they have that problem before the airport cleaned that land off?

Jeff Mueller: Well, I think it's kind of, that ditch has always ran pretty full, Steve, because I live up there.

President Melcher: No, I understand that.

Jeff Mueller: The question is would they have had the flooding without the airport? That's a good question. I don't have a good answer for that. The only thing that we're trying to do is just to make sure that the county ditches are working properly.

President Melcher: No, I got ya now.

Jeff Mueller: Okay.

President Melcher: This piece of property, do they have plans for that property?

Jeff Mueller: Their plan is, they're sloping that hill down to about five percent. It was steeper than that, then they're going to put topsoil back on it. When we talked to the airport they weren't sure if they were going to go back to farming it, which was its historical use, or if they were going to just, you know, put it in grasses and go with pasture, not pasture, but, you know, just grass seed. So, that's the only thing I knew the last time we talked to them.

President Melcher: Okay.

Jeff Mueller: Okay?

President Melcher: I just, I was going to say I don't think we ought to leave it bare.

Jeff Mueller: Yeah, I agree.

**Additional Ditch Maintenance Requests:
Henry, Crawford-Brandeis & East Side Urban
(South Side of Ditch Along Norfolk Southern RR)**

Jeff Mueller: The next thing I wanted to bring up to you is, as I've gotten my feet on the ground more, I've probably, you know, done a lot of things the same that the previous Surveyor did, but one of the things is that I'm probably, I'm more of a mower than other people. As you were aware, the last time we came in we wanted to do some additional mowing. One of the things, Linda and I met with NS, Norfolk Southern, here not too long ago, and, as you're aware, I'm going to call it the

Wabash-Eerie Canal, but it's got a bunch of different names, legal drains that stretch from Stockwell Woods all the way out to the county line. That ditch there, and if you think about it, at Morgan and Green River, if you look down the side of that ditch—

President Melcher: That is the Wabash.

Jeff Mueller: Yeah, and so what we would like to do is, the railroad has told us that as long as we mow on the south side of that ditch, which is where most of the growth is, they don't have a problem with that. They're not excited about having equipment on their side of it. So, we did not propose mowing that before, but what I would like to do is to mow, put out some proposals for bids, and I'll talk to you about that in a minute, but for about 16,000 feet of ditch, just the south side, along that. Also, there's a little piece of Crawford-Brandeis, which would be right here, that I would like to mow. Then, it's not shown on here, but Henry Ditch, when the crops are out. Henry's up Kansas Road, north of Windham, that area. Anyway, what we would like to do is, when we went out for bids before, we only had two people bid on the mowing before, and that was Mark Naas and James McCullough. So, what we would like to do is submit to them the information and ask for them to bid on the mowing of these two parcels, or these three areas, I'm sorry.

President Melcher: So, which side are we going to cut? Are we going to cut the side with the road?

Jeff Mueller: Are you talking about on the railroad?

President Melcher: Yeah.

Jeff Mueller: We would be cutting the south side, not the railroad side, but the other side. It's pretty weedy out there. There's probably about, I would say—

President Melcher: So, you're saying on the other side of the road? I'm confused.

Jeff Mueller: Okay, I'm sorry, Steve. Where the railroad is, on the south side you've got the ditch or the old canal, that south slope of the ditch. The slope that's not on the railroad grade. You've got the railroad grade, the ditch, and then you've got the other slope. So, like, when you're driving down Morgan Avenue, when you see the businesses down through there, all that area there, to mow that area through there.

President Melcher: Okay, because you'll never get them to cut it.

Jeff Mueller: Well, and it's actually a legal drain. I mean, we're collecting taxes on that legal drain. Actually, they're telling us that their right-of-way ends at the ditch anyway. Which, it's hard to tell when you're going back to railroad right-of-ways and what they control from 200 years ago.

President Melcher: No, we can't win on the railroads.

Jeff Mueller: Yes.

President Melcher: Okay.

Jeff Mueller: Okay, so, we would just, all I'm asking for is that we would be able to go out and get these bids and bring them in to you. We're not going to push the buttons and say, go, or do anything. We would just be coming in, asking them to give

us some bids and then come back to you here in a couple of weeks with those proposals.

President Melcher: So, how far, you're going to go....where are you going to cut, going from where to where?

Jeff Mueller: Starting at Stockwell Road, right here, and going all the way to the county line.

President Melcher: Okay, that's right where it goes into Wesselmans?

Jeff Mueller: Yes.

President Melcher: Because that's where it all dumps to.

Jeff Mueller: I think the other thing is, if you're at Green River Road and you look down that thing and we get that mowed, I mean, our objective is to keep ditches maintained, but it will also look a lot nicer.

President Melcher: Because Stockwell goes under water from time to time too.

Jeff Mueller: It could.

President Melcher: It does now.

Jeff Mueller: Okay.

President Melcher: Okay.

Joe Harrison, Jr.: You might want to give him a motion, just to approve going out for bids.

President Melcher: Okay.

Commissioner Kiefer: Okay, I'll make a motion to approve to go out to bids.

Commissioner Abell: I'll second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay, you've got permission.

Jeff Mueller: Okay. Thank you.

Final Drainage Plan Approval: S&S Trucking: 2720 Diamond Avenue
--

Jeff Mueller: I've got some drainage plan approvals. First is 2720 Diamond Avenue, S&S Trucking. That's just a trucking lot. It's on the south side of Diamond Avenue. It's a very simple drainage plan. There's a ditch on the south side of it, they're going

to put some retention into the ditch. It's a simple plan. Nothing there I see of any problems. I'm just asking for approval of that drainage plan.

President Melcher: Okay.

Commissioner Abell: Motion to approve.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you. Next?

Final Drainage Plan Approval: Ridgefield

Jeff Mueller: The next is Ridgefield. You actually did, let me grab my folder, I think I gave you a little sheet there, but you actually did a preliminary approval on this. It's a three lot subdivision. All I'm asking for is the final approval on that. I will note that when we gave the preliminary approval before, we did not require retention, and nothing has changed there. It's essentially three lots, we would tear up more by trying to put in a small detention pond than we would if we tried to do it. Like I said, that's what we approved before. So, I'm just asking for final approval on that one.

President Melcher: Any questions? I'll take a motion then.

Commissioner Kiefer: Move to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? Thank you.

(Motion approved 3-0)

Heckel & Green River (Postponed)

Jeff Mueller: I think, like we said, we've already talked about the grocery store. We'll have something for you in two weeks.

President Melcher: Well, that was only fair to do.

Jeff Mueller: Yes, I agree.

Huang-Huston Drainage Issue Update

President Melcher: The next one, I'm not going to try to pronounce it.

Jeff Mueller: Okay, Huang-Huston. Okay—

Commissioner Abell: Do you just put this on the agenda every time regardless?

Jeff Mueller: This is not for the weak, anyone with a weak heart should not watch this. As you will see, those are pictures of construction on Huang-Huston.

Commissioner Abell: Wow!

President Melcher: Wow!

Commissioner Abell: Wow, I would have never thought that I would see it.

Jeff Mueller: I know, and, again, I want to make sure that everyone realizes, give Linda a lot of credit. She has dogged this project and dogged it. Where we're at right now is they worked on it a couple of days last week. They were not working on it yesterday or today, and they're going to be back on it tomorrow. Essentially, what they've done so far is just installed the pipe. They've got to come back and put concrete and the curbing in. He thought he was going to get back tomorrow, didn't know if he was going to get finished up this week or not, but we're progressing. Seeing the real stuff going on. So, I just wanted to show you a couple of pictures of it.

Commissioner Abell: That's a big project.

Plocik-Baker Drainage Obstruction Petition Update

President Melcher: Then we've got the update on the Plocik-Baker drainage petition.

Jeff Mueller: Yes, on that one, I have a couple of things to bring you up to date on, and I have a question for you. If you remember, that was one that came up about two meetings ago. At the time, I kind of made some suggestions, and I think we kind of went through a few suggestions and we said let's stop with, instead of talking about the removal of the wall and everything else, let's have the engineered plan come in first and then we'll take off from there. I met with the engineer last night, he kind of showed me his ideas and he sent me some preliminary calculations. I've asked him to do, I think he needs to do more, and kind of pointed out to him what he does. So, he's going to be giving us some additional drawings that he hopes to have here shortly. One question, and, by the way, I did tell him that anything that comes in has to meet code regarding retaining walls and regarding fence heights. Now, on the retaining wall, it is a six foot high that has to be designed by the engineer, so they're under six foot, but as far as the fence, they're going to have to address the fence one way or the other. So, because you know we have the retaining wall, plus six feet, they're going to have to address the fence somehow. So, they know that, okay. I told them, you guys will not accept anything that does not address getting that into code. So, I did want to do that. The one question I had was we stopped, when we were going through the motions that night, with an engineered plan, but in the past one of the things that we've also said is that, you know, once we've agreed on whatever plan it's going to be, that a licensed contractor actually does the

physical work. I assume that we're going to require that for this project too. Is that correct? Do I need to notify him of that, be sure to put in your plan that a licensed contractor has to do the dirt work?

President Melcher: I don't see why we can't do that. We have to use a licensed contractor.

Jeff Mueller: Yeah, I mean, versus like the guy just doing it himself or anything. We're not going to get into that.

President Melcher: No, because we'll get into a problem again. If you have a licensed contractor, everything is up front.

Jeff Mueller: I agree with you, Mr. Melcher. I just wanted to make sure that I was not going to tell them something that, you know, the Board didn't agree with me.

President Melcher: If we tell somebody we want it up to code, we want a licensed contractor that knows code.

Jeff Mueller: Okay, and I'll tell him that when, in your plan to make sure to put in there that a licensed contractor will do this work.

President Melcher: Okay.

Jeff Mueller: So, he's going to be getting me something shortly there, then I'll take it to Mr. Plocik and review it with him. Then, hopefully, we'll be moving forward with that. We've got neighbors that don't always agree.

President Melcher: Okay.

Burkett-Moore Drainage Obstruction Petition Update

Jeff Mueller: Burkett-Moore. On August 5th I received a call from Mr. Burkett, and he said, well, they've been out here doing work on my property, Mr. Moore had. He had hired a contractor that came in and moved the pipe off his property. So, he went over and talked to him about it, and said, you know, what are you guys doing? You're not supposed to be doing anything yet. Then, he called me and he says, are they supposed to be doing anything yet? I said, no, they're supposed to be submitting a plan to us. Before I could do anything further I got a call from a Mr. Jay Stucki, who came in and said that he was working with Mr. Moore, and he wanted to come down and see the plan. I said, there is no plan. Mr. Moore is supposed to be providing us with a plan. That plan is supposed to be reviewed by Mr. Burkett, and then we're supposed to be moving forward. Mr. Moore said, well, I was just trying to work with, I'm sorry, Mr. Stucki said I was trying to work with Mr. Moore. Then he called me back and he said, well, you know, one of the things is that instead of lowering the driveway that Mr. Moore wanted to put another pipe in. I said, absolutely not. The Board had said lower the driveway two and a half feet. The only way that that can get changed is if you come before the Board. The only way you can do that is if both parties agree. So, right now, we need to stick to two and a half feet above the pipe.

President Melcher: They don't have to come back to the Board.

Jeff Mueller: That's what I thought the answer would be.

President Melcher: It's not going to happen. He's just wasting his time.

Jeff Mueller: Right, I understand that. So, what had been happening was the engineer, Glen Merritt with Cash Waggner, and I think you all know Glen, he's a good guy, Glen had been, when Glen submitted the plan I said, Glen, this plan, I need to see a profile line of that driveway. I want to see how much cover is on there now, and I want to see something that shows, you know, that being cut. So, Glen was going to go out and do a profile, and then he got put on hold. To make a long story short, now Cash Waggner has been given the okay. Glen is going to be going out and getting us a profile. He's going to be getting us a finished plan. So, we're back on the way things should be, other than a little bit behind schedule. Mr. Burkett called me this morning, because he was saying what's going on out there? I told him, and I said, look, there was a little bit of some problems but they're back to doing the letter, they're doing it. I said, we're a few weeks behind, but we are, that is what's going to be required. So, Mr. Burkett is fine with things right now. So, like I said, I just wanted to bring you up on that issue and to let you know that we're still pushing that one.

Other Business

President Melcher: Then, I guess, next, other business? Do you got anything else?

Jeff Mueller: The only thing else, I'll let you continue down the sheet.

Ditch Maintenance Claims

President Melcher: Okay, the ditch maintenance, we don't have any claims tonight?

Jeff Mueller: No.

Public Comment

President Melcher: Public comment? There's nobody left here.

Jeff Mueller: I've had two people, well, one of them was Mr. Koch that you heard earlier.

President Melcher: He was sitting there, and I think when I said we weren't going to hear the Heckel-Green River, I think that's when he got up.

Jeff Mueller: Okay. The second one was by Mr. Fehd, but if we could just take one minute, real fast.

President Melcher: We can.

Jeff Mueller: Okay.

President Melcher: You've got 15.

Jeff Mueller: Millersburg Road, along Millersburg Road, I-164, the Warrick County line, the ditch comes, it comes under I-164, comes up, and it goes up through this area that, the fill area.

Commissioner Abell: Oh, yeah.

President Melcher: We know a lot about that property.

Commissioner Abell: Yeah, we know a lot about that property.

Jeff Mueller: Yeah, I know you do. Okay, I guess, at one time, way before my time, this ditch used to come this way and tie on down the creek. You know, and these farmers are over here saying that needs to be replaced, and, by gosh, that's the way things should be done, and this and that. My comment to them was, first of all the county came out and the county road crew did an excellent job of cleaning this ditch out. This is the ditch looking east right at County Line Road. You can see, it had a fair amount of standing water in it, and they got it cleaned out. They went over, this pipe right here under I-164 I want to point out, because we can do everything we want to on the other side of 164, but unless we can get water to run uphill and go into that pipe, it doesn't make any difference, because that pipe, that is the controlling elevation. On the other side, here is where the creek, I-164 would be here and now we're looking west down Millersburg Road, and at this point it turns and it goes up the ditch. As I've explained to them, that ditch, this is not a legal drain, it is a private ditch just like any other ditch, and, you know, the issue is, they say, well, that ditch needs to be cleaned out. I've talked to Mr. Metzger, because he was out there one day, and he said, the only problem with that is our whole area we're trying to get a Corps permit. So, really, we can't touch it, but he says I will give them permission to clean that ditch out if they want to, but, you know, that's them. Well, of course they come back to me and say, well, the county needs to clean that ditch out. I've said, it's not a legal drain, it's not along a county road, we don't do that.

President Melcher: So, you're saying he doesn't have an Army Corps permit?

Jeff Mueller: He's working on one right now.

President Melcher: He's been working on one for years.

Commissioner Abell: Yeah, several years.

Jeff Mueller: The only thing I can—

President Melcher: In fact, they even had the letter out the last time. He said, we're going to get it any day now. That was probably a year or two years ago.

Jeff Mueller: I can only speak with dealing with the Army Corps, Mr. Melcher, and I've not had very good experience with them moving very fast or with their timelines.

Commissioner Abell: Are you saying that government doesn't move quickly?

Jeff Mueller: I would like to say county government does.

President Melcher: Either that or it's not really happening. Okay.

Jeff Mueller: Like I say, I've had a lot of experience with the Corps, and they just have their own pace is my own personal comment.

President Melcher: But, they work faster in Owensboro.

Commissioner Abell: Different Army Corps of Engineers.

Jeff Mueller: So, anyway, I guess, to try to put this to bed, these farmers, some of them Vanderburgh, some Warrick are saying we really want to see this ditch built back along Milersburg Road. My comment to them has been, you know, unless the county is willing to spend the money–

Commissioner Abell: We're not.

Jeff Mueller: – and just to give you a feel for it, we're talking about moving 4,000 yards, we're talking about putting driveway pipes and everything else in there.

President Melcher: We're not going to do that.

Jeff Mueller: We're not going to be doing it.

Commissioner Abell: We're not going to do that.

Jeff Mueller: I know all of this stuff about, there's stuff about, well, Andy Easley worked on this agreement, and it was never filed, and it should have been recorded and everything else. It's like, I don't know, Mr. Easley's deceased, there's nothing in the files other than some notes, the ditch is where it is, it's done. I guess, that's what I'm saying, as County Surveyor I want to say, we're not going to do anything more on it. You know, the only thing I've told them is, they say, well, you need to talk to them about getting a right-of-way and the county making it a legal drain. I said, first of all, they may not want to give a right-of-way, the county may not want to receive it, you've got to figure out how to get a legal drain. I guess, what I'm saying is, right now, the water drains, we've got a lot of other drainage problems in this county, a lot more serious, and I've done what I can for these folks. I think the County Garage did an excellent job of cleaning their ditch out, and I don't know what else we can do for them.

Commissioner Abell: It's a natural irrigation system for their crops.

Jeff Mueller: I was just bringing you up to date. Mr. Fehd had requested to come before the Board. He's not here tonight, so I got to make my argument without him here. I thank you for your time and listening.

President Melcher: We thank you, and thanks for sticking around, thanks for making a comment, because my vote was going to be hinged on what you were going to say, that's why I was going to get you up.

Jeff Mueller: Okay, and that's, you know, like I said, we gave them some....because, you probably heard them talking about doing something different. I'm not opposed to looking at something different, but I want to see the numbers to back it up. We gave them some requests, they gave us a lot of numbers back, but when you get something at 7:00 the night before, you just don't have a lot of time to look for it. I really just want some time to chew through it, because, especially if we're going to do something different.

President Melcher: I know it's land use only on zonings, so, the water thing should not even come up, but I also understand the plight of what's going on.

Jeff Mueller: Yeah, and my comment was I just didn't want you to have the impression that I was going to be coming in here right afterwards saying I've got a drainage plan ready to be approved, because we need to look at it more. It might be fine, but I've got to look at it, spend some time looking at it.

Commissioner Abell: It's a real water sensitive area.

Jeff Mueller: Yes.

President Melcher: Anything else for the Drainage Board this evening? Anybody in the audience? We stand adjourned.

Jeff Mueller: Thank you.

(The meeting was adjourned at 6:50 p.m.)

Those in Attendance:

Stephen Melcher

Joe Kiefer

Marsha Abell

Jeff Mueller

Joe Harrison, Jr.

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
AUGUST 27, 2013**

The Vanderburgh County Drainage Board met in session this 27th day of August, 2013 at 6:32 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Pledge of Allegiance

President Melcher: Okay, if we could all rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the August 13, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

**Open Bids for Additional Mowing:
Henry, Crawford Brandeis & Portion of East Side Urban**

President Melcher: We need to open bids for additional mowing on Henry, Crawford-Brandeis and East Side Urban, south side of the ditch along Norfolk Southern Railroad. We need a motion to open them up.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Discussion of Using Weights & Measures for Dump Site

President Melcher: Thank you. Final drainage plan approval for Crossroads IGA, Heckel and Green River Road. Jeff?

Jeff Mueller: Mr. Melcher, if we could step back for one second. I just wanted to bring up one other thing. On the ditch, if you'll recall we had some clogging underneath

N.S., you know, the pipes over there by Stockwell Road. We talked to the N.S., and they would like to, they were open to them doing the work for us at no charge to us, if we would give them a dump site. We looked at some dump sites and thought that, we've talked to the city Weights & Measures people, because they own that little piece of property, or they utilize that little piece of property next to McDonald's, where the N.S. could haul the material over there. Then, at a later date, after it dried out, we would have to load it and, you know, then haul it off to some dump. So, our cost would be reloading the material and taking it off somewhere, but then we would not have to clean out that pipe. I guess, my—

Commissioner Abell: Are you sure we own that property? I think the city owns that property.

Jeff Mueller: Yeah, I talked to the city Weights & Measures. I talked to Loretta, to ask her if we could borrow, if we could utilize her site to just dump on there temporarily.

Commissioner Abell: I think I would ask the Mayor.

Jeff Mueller: Okay. If that would be something that would be amenable, I mean, we would be looking at a lot less cost, and a lot less hassle with the railroad, because they would clean our pipe out for us. We would just have to haul material off at a later date. Is that something that the Board is okay with, if I continue to pursue? That's all I'm asking right now.

Commissioner Abell: Mr. Harrison?

Joe Harrison, Jr.: I don't see a problem, just, I would report back after you speak with the Mayor on the matter.

Jeff Mueller: Okay.

President Melcher: Yeah, and I think, if you're going to have pictures, let's have pictures of where it's going.

Jeff Mueller: Okay, I'll get those for you.

President Melcher: You know, because I know you said it was by McDonald's, I didn't know Weights and Measures had something by McDonald's.

Jeff Mueller: Yeah, the old Indiana National Guard—

President Melcher: Oh, you're talking about McDonald's Golf Course?

Jeff Mueller: Yeah.

Joe Harrison, Jr.: Right behind there.

Commissioner Abell: You thought he meant McDonald's restaurant?

President Melcher: Yeah.

Jeff Mueller: I'm sorry.

President Melcher: Okay, well, when you said McDonald's—

Commissioner Abell: He was thinking the hamburger joint.

President Melcher: I guess so.

Jeff Mueller: I'm sorry, it's getting late, I'm getting hungry too. Yeah, the McDonald's Golf Course, that old Indiana Guard building, that white, brick building that was next to it.

President Melcher: That was OMS Shop 6, yes.

Jeff Mueller: Weights and Measures is in there, and if we could, N.S. wants some place close to be able to haul the material, and, you know, because if they're going to do the work for us for nothing, but they don't want to be hauling it halfway across the county. So, that's why we thought, well, here's a site that's municipally owned—

President Melcher: Have you talked to Loretta about that?

Jeff Mueller: We did.

President Melcher: What did she say?

Jeff Mueller: She told me that I'd better get it out of there after they left, you know, that she didn't want it there a year from now.

President Melcher: Because I know there is another deal that was there, that they allowed to drop off a bunch of stuff there—

Jeff Mueller: And she was not happy with that deal.

President Melcher: Yeah, she was not happy with that deal, and that was trash cans.

Jeff Mueller: Yes.

President Melcher: Because it was full of trash, they didn't bring empty ones. They were only going to store them there, and they—

Commissioner Abell: (Inaudible. Microphone not on.)

President Melcher: I don't know, that's one...so if we get it from the Mayor and that, then we'll know.

Jeff Mueller: Okay, but at least, as far as continuing the conversation, we're not committing to any money or anything right now, you don't have a problem with me continuing with this conversation?

President Melcher: It's not going to create any odors or anything?

Jeff Mueller: Right, and before we would come to you, we would definitely tell you what we're going to do and what we're looking at.

President Melcher: That's my old Third Ward and I don't want any problems.

Jeff Mueller: Yes.

President Melcher: Okay.

Jeff Mueller: Okay.

President Melcher: They've still got my phone number.

Jeff Mueller: Sorry about that little diversion.

Final Drainage Plan Approval: Crossroads IGA: Heckel & Green River

Jeff Mueller: Okay, I'm sorry, the final drainage plan approval now. In your packet, or the information I just gave you, is a letter from Arnold Engineering. Mr. Arnold is here, regarding the planned drainage plan for that area. I will tell you that, in my opinion, the plan that they submitted meets our drainage code. One of the reasons though that they are submitting a letter is it's a little something different, and that instead of having an open dry basin, that what they're proposing is infiltration trenches filled with rock. So, the infiltration trenches are much larger, and then they assume a 40 percent void ratio. So, what's in that 40 percent void ratio is the amount of water that they have to hold. There's some procedures that we required that they would test for that 40 percent void, and committed that they would either put that, make sure the material met that or they would actually have to increase the trench. This is a plan that, I think it's something that we might, if it works here, and I think it will, that we should look at in other places, because, first of all, instead of having an unsightly retention pond you've got some nice, rock area that's doing something good. The rock is actually acting as a filtration system, so, I think it will help clean the water a little bit. The other thing is, is that when the water coming in those infiltration trenches, it's got filter fabric in it, and some of the water may, depending on soils, filter into the ground instead of running off. So, it's my recommendation that, this plan, like I said, meets our code, and it's my recommendation that the Board consider it for passage.

Commissioner Abell: Mr. Mueller, when you set something up like this, will, you say it filters the water and then the water goes on down into the ground. I'm assuming it filters out something then, if it filters, and is that going to cause an odor in that area?

Jeff Mueller: Well, there would be a drainage pipe, just like there would be on a normal basin, okay? But, the storm water would have an opportunity to instead of just going out the pipe, while it's sitting in the basin would actually have an opportunity to also filter into the ground a little bit better. Does that make sense?

Commissioner Abell: So, it wouldn't cause any—

Jeff Mueller: Well, you're talking about theoretically clean storm water. I mean, no different than storm water that we would get at any other site, but instead of sitting in a pond, or we've got some of these storm water ponds that are shallow and they're stagnant, this is going to be dry most of the time, but when it comes into the stone, it will go into the stone and then it will either run out through the pipe or it will filter into the ground. It will still be a dry basin, it will just be a dry basin with rock in it is about the best way to describe it.

Commissioner Abell: Okay.

President Melcher: Is it kind of, I don't understand this, but the city and the county did the back 40 parking lot, and they've got big, rock drains and everything there. According to Dave Rector that has really helped the drainage issues in the parking lot.

Jeff Mueller: I think it's something similar to that.

President Melcher: That's what I'm asking.

Jeff Mueller: Something similar to what's done at Target. Mr. Arnold in his letter, and he's here if he would want to address, it's something that's being done at a lot of other cities. The thing is, Mr. Melcher, I used to work in Maryland, and they've got some of the toughest water standards around, because of the Chesapeake Bay, and they allow these kind of systems out there. So, I'm figuring if it's something that they're trying, and they like, it's something that we could try. If it's something we like, we could continue to utilize it at other sites. You'll get rid of some of these holes in the ground that we've got, and, you know, make something a little better, and, like I said, I think it will help our ground water, or, I'm sorry, our surface water quality a little bit better too.

President Melcher: Okay. Did anybody want to hear—

Commissioner Abell: Yeah, Mr. Arnold, where are you? I want to hear him. I want to ask him a couple of questions.

Jeff Arnold: Hi, I'm Jeff Arnold.

Commissioner Abell: Welcome, Mr. Arnold.

Jeff Arnold: I've got some pictures I can give you.

Commissioner Abell: Okay.

Jeff Arnold: I will tell you, this is—

President Melcher: You might as well wait until you get back before you talk, because we can't catch it on the tape.

Commissioner Abell: This must be something in Bowling Green, it has WKU written on the side of it.

Jeff Arnold: Well, we're from Bowling Green, we're based out of Bowling Green.

Commissioner Abell: That's where I went to school. My question is, is this consistent with stuff you've done before?

Jeff Arnold: Yes, Ma'am, it is. It's fairly new. It's a clean water quality initiative. Bowling Green has been a Phase II water quality city for seven or eight years now. We've incorporated it there, we actually do work all the way down into Atlanta, and all the way up into Dayton and Columbus, Ohio. That's the preferred method for treating water quality. You get the added benefit of having your water quantity stored in it as well. It's just, and it's very attractive. We just did a nursing school at Western Kentucky University, that's what those pictures are. It's a very attractive storm water basin.

Commissioner Abell: Is that what this project will look like?

Jeff Arnold: Let me check with my other engineer? Yes, we spec'd that size stone, so, yes.

Commissioner Abell: What did you do with those other pictures?

President Melcher: Mr. Bohleber? Steve, did you get those pictures?

Steve Bohleber: I did.

Commissioner Abell: Marsha and I are sharing, so you can have a set.

Jeff Arnold: Oh, did you get a set?

Commissioner Abell: No, we don't want them. We're going to share ours, and you can share them with your—

Jeff Arnold: Chattanooga, Tennessee is probably, I haven't been to Maryland, is probably the hardest place to develop. They're a very green community. This is what they prefer.

Commissioner Abell: That answers my questions.

President Melcher: Jeff, do you have a copy, do you have pictures of this?

Jeff Mueller: No, I don't.

Commissioner Abell: Did you see them?

Joe Harrison, Jr.: Yeah, I gave her my set.

Commissioner Abell: Oh, okay.

President Melcher: Well, can we, okay—

Jeff Mueller: Essentially, if you can think about the drawing that was shown earlier, essentially, you've got a five to, I believe, an eight foot barrier going almost around roughly two thirds, all except for the one side of the lot, you've got this barrier going around, it's capturing it. Where there's a drive, there's a pipe hooking the two systems, the two different systems together, and then there's an outlet pipe. So, what I would like you to think about is if you took our standard basin, increased it by 60 percent, filled it with rock, but instead of being some rectangle it's going to be a lateral going around the lot.

Jeff Arnold: It's kind of like a french drain, if you know what that is.

Commissioner Abell: Oh, okay. Sure we do.

President Melcher: We know what—

Jeff Arnold: It's very similar to a french drain.

Jeff Mueller: A super large french drain.

President Melcher: We're learning all about french drains.

Jeff Arnold: You're very correct about the parking lot. It's a lot like what you all have got here.

President Melcher: Okay.

Jeff Arnold: Very similar to that.

President Melcher: The one thing that I would like for you to, Jeff....is that your copy for the records?

Madelyn Grayson: Yes.

President Melcher: Can you keep that, or let her make a copy of it and you take it to Ron London, and that issue that we're talking about on rock, less blacktop—

Jeff Mueller: Sure.

President Melcher: — that's a positive note for us.

Jeff Mueller: Yes.

Jeff Arnold: Well, if you need to hire a consultant—

President Melcher: We understand. We're just looking at an ordinance change.

Commissioner Abell: It's very attractive. Very attractive.

Jeff Arnold: Thank you.

President Melcher: Okay, any other questions, Marsha? We're the only two, so there won't be any questions, I guess, now. Alrighty, I guess, there's probably some remonstration. Steve, do you want to—

Steve Bohleber: Well, just a question for Mr. Mueller.

President Melcher: Excuse me, Steve, just come up on the record, that way we have it.

Steve Bohleber: Is it fair to say that the ordinance deals primarily with surface water runoff issues on the subject site?

Jeff Mueller: Yes.

Steve Bohleber: It doesn't take into consideration water that may creep up from adjacent properties onto this site, from other sources?

Jeff Mueller: No, we just, it's storm water off the site.

Steve Bohleber: No more comments about that.

President Melcher: For the record, that was Steve Bohleber. So, be sure to put that in the minutes. Any other questions by anybody? Anybody else? Yes, just come up and state your name.

Dan Koch: My name is Dan Koch. The question I've got is, with the water table being so high in that area, will the water actually drain through the rock? I mean, it will drain through the rock, but if the water table is so high, where is it going to go?

Jeff Mueller: There is an outlet pipe for the structure. So, there's an outlet pipe that goes into the ditch alongside Green River Road. Okay? But, if it wasn't going to that point, then it would have a chance, what I'm saying is it has a chance to infiltrate into the ground while it's sitting there, but it also, the normal method would be to just go out through an outlet pipe, just like it does right now. Like any other basin would do right now.

Dan Koch: Would you assume then, with the water table being so high, that water probably will not drain through there and will be forced to go through that pipe?

Jeff Mueller: That's a possibility, yes.

Dan Koch: Okay.

Jeff Mueller: I mean, the pipe's designed to carry, it's just, there's a chance some of the water will infiltrate into the soils. You know, like if you had a big thunderstorm and the soils were dry, so, instead of some of the water running out of the pipe, some of it would have a chance to infiltrate into the soil, so you might have a little less of runoff into what you would normally experience in a normal basin, which would be it would all go out through the pipe. Okay?

Dan Koch: Yeah, I guess, the point I'm trying to get across though, with the water table being so high, odds are of that water saturating down into the ground is probably minimal.

Jeff Mueller: It depends on, you know, the dryness, you know, today, if we had a big rain today, it would go in, and you're right, if it's in the springtime, I don't think it would.

President Melcher: Okay.

Dan Koch: Thank you.

President Melcher: Any other questions, comments? Jeff, are you done?

Jeff Mueller: Yes, sir.

President Melcher: Okay, so, you're wanting approval of this tonight?

Jeff Mueller: Yes, and that's a final drainage plan. It's not a subdivision, so, we would be asking for final.

President Melcher: So, we need a motion.

Commissioner Abell: So moved.

President Melcher: I'll have to second it. Roll call vote please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 2-0. Commissioner Kiefer recused himself from the vote.)

Final Drainage Plan Approval: Gerling Estates
--

President Melcher: Okay, next we have the Gerling Estates.

Jeff Mueller: Yes, and I gave you a letter on that. As you know, some of these small subdivisions, you have to, you know, we run through the numbers and we look at them and say, you know, do we build a pond or not for some of these. Gerling is a three lot subdivision, but it's actually got a house already on it. So, we're only talking about two new lots. What I had Easley do is tell me that, you know, go through the numbers and tell me what the difference is between the undeveloped and the developed case. They're so minor, and if you went through and then had to start to put in a small retention pond, you're going to tear down a bunch of woods. So, just like we did on Ridgefield a few months ago, the drainage plan would be that he would not have to have retention on this. That's what they're asking for on this particular issue. Like I said, I look at this as almost, it's almost like a two, you know, if this was a two house, if this was a two lot minor, which is kind of what it is, because it's two new lots, we wouldn't even require a drainage plan anyway. It's not in our code to do that. So, the final drainage plan request is that they provided the calculations, there's hardly any increase in runoff, and we would do more damage than good by putting in something. So, the request is to, the final drainage plan is that no drainage would be required on this.

President Melcher: Okay, Joe, do you got a question? Marsha?

Commissioner Abell: Move for approval.

Commissioner Kiefer: Second.

President Melcher: Well, before that, anybody in the audience have anything you want to say? Go ahead and come up. On this one?

Dan Plocik: (Inaudible. Not at microphone.)

President Melcher: No, I just wanted to get that on the record. Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Huang-Huston Drainage Issue Update

President Melcher: Alright, the next one.

Jeff Mueller: A quick update on Huang-Huston. The work is done. The pictures that we showed you last week, this is the completed project. The curb, you can't see it very good there, but there's rock and there's some drains. So, this is essentially the property line between Huston and Huang's. The curb has been put in, the rock, the drains. The drain comes down, it feeds out into a little concrete right there and goes to the street. If you'll remember there was an easement that she had to acquire from Scheu, so that was the reason for the easement. Mr. Huang is out of town, so, but, I mean, we were out there. I don't know if he'll be completely happy or not. I assume he would. We did everything accordingly. We did note and told Mr. Huang that his barn is actually within about six or six and a half feet, so it really needs to either come another foot off the easement, or he needs to come in and ask for an encroachment agreement. But, unless he's got any issues, as far as this office is concerned, Ms. Huston has met the requirements for this and this is done.

Commissioner Abell: Could you back up a picture?

Jeff Mueller: Sure.

President Melcher: We've got a question, and I said, I'm not the one that could answer that.

Jeff Mueller: Alright. Bear with me here a second. I don't know how to go backwards in this. So, tell me when to stop.

Commissioner Abell: One more, one more, one more.

President Melcher: We want that one.

Jeff Mueller: Alright.

Commissioner Abell: That water is going to come out and land on that little piece of concrete, and it's going to stay on that little piece of concrete and go to the curb and not going to disturb any of the soil or anything around it?

Jeff Mueller: That's—

Commissioner Abell: Is that what you're telling me?

Jeff Mueller: Well, I'm telling you that's the way it was designed, but there's not a whole lot of water coming out of there. I mean—

Commissioner Abell: Well, that concrete isn't any bigger than a stick of chewing gum.

Jeff Mueller: I agree. The contractor followed the plans that were provided.

Commissioner Abell: Okay.

President Melcher: When she asked me that, I just laughed. I don't know.

Jeff Mueller: I mean, I understand what you're saying. If you were thinking that pipe is running full, but remember that it's only taking a small area of water back there, and I just don't see where this water is going to be shooting out into the street in huge volumes.

President Melcher: If it was higher it would look like a bunker with a cannon sitting there.

Jeff Mueller: Yeah, come by and do a car wash.

President Melcher: That's the military in me, right?

Commissioner Abell: That is a little silly looking.

President Melcher: Okay, now is this all final? I mean, everybody, as far as we know, the yard barn got moved? Did the fence—

Jeff Mueller: It's still a foot into the easement. We've told Mr. Huang about that. That he either needs to move it a foot out, or he needs to come in for an encroachment. As far as Candie Huston's requirements, in my opinion, she's met her requirements.

President Melcher: She's done. So, now we just need to get him to do his.

Jeff Mueller: Yes, either he needs to come in with an encroachment agreement, or push his barn back a foot.

President Melcher: Okay.

Jeff Mueller: Again, I would like to give Linda credit. She's dogged this thing tremendously.

Commissioner Abell: This precedes you, doesn't it?

Jeff Mueller: Yes, oh, yes.

Commissioner Abell: I think it precedes me.

President Melcher: It does.

Commissioner Abell: Okay, do you need a motion to approve this?

President Melcher: No, it's done. He's just giving us an update. These are updates, so we're done with motions tonight.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Let's see, update on the Burkett-Moore drainage petition.

Jeff Mueller: I did get a plan from the Moore's. Mr. Burkett is kind of busy right now because, you know, he's a mechanic, right now I've tentatively got to meet with him on Thursday at 5:00, to meet with him to show him the plan. Hopefully, we'll be moving ahead with this work shortly.

President Melcher: Okay, and you pronounce the next one.

Plocik-Baker Drainage Obstruction Petition Update

Jeff Mueller: Mr. Plocik and Mr. Baker, and this is Mr. Plocik here.

President Melcher: Okay.

Jeff Mueller: I will tell you that we were supposed to have a drainage plan in from the Baker's, and we don't have it yet. When I talked to Mrs. Baker yesterday, I explained to her that, you know, we need to be getting something. I've talked to the engineer. So, I don't know if they've given, he was kind of waiting to get the go ahead to finish up the plan. I'm not sure where they're at on that. I guess, my opinion on this would be that they need to either have a plan to me before the next Drainage Board, or they need to be coming in here appearing before you.

Commissioner Abell: We're trying to decide, is this the one where—

Jeff Mueller: This is the one where they moved, yes.

Madelyn Grayson: The big wall.

Commissioner Abell: Oh, the big wall. Okay.

Jeff Mueller: Yes.

President Melcher: Well, there's nothing more we can do right now. Did you want to say something on this tonight? I can't pronounce your name right, so, I don't want to butcher it up.

Dan Plocik: Dan Plocik.

Jeff Mueller: Can you come to the microphone?

President Melcher: Is there anything you would like to say? Right now we're pushing them to get something done.

Dan Plocik: The reason I came, I wasn't 100 percent sure whether or not any business would be done on this. I did want to communicate to the Board that there are two main issues that I am disturbed about. I did make a presentation, but, clearly, it wouldn't be appropriate to do that without the Isaac's and the Baker's being here. I do want to let you know what my concerns are. The first concern I have is that the impression I got after the last meeting was that the certified, licensed engineer the Baker's were going to hire was basically to help advise the Drainage

Board, to give maybe more input than what the Surveyor had been giving to you, and that this person would basically be a neutral person. A person of, you know, that's unbiased.

President Melcher: You know, I don't remember that. That didn't happen here.

Dan Plocik: Yeah, you ordered, one of the motions was to order the Baker's to hire—

President Melcher: Well, we did about 30 motions on this, so, I didn't—

Dan Plocik: Yeah, that was one of the motions—

President Melcher: Okay, alright.

Dan Plocik: — was to hire a certified, licensed engineer to, what I thought was, to come up with a solution, a plan, that would be in the best interests of the landowners. Well, after reading the minutes of the previous meeting, it's clear that the Baker's have been using the person they hired, this certified engineer, they actually were using him in the construction design process of this wall. From the standpoint of, you know, that's their business who they hire, I guess, but I would like to make sure that the Board understands that this is not a neutral arbiter. This is, basically, somebody, you know, it's like hiring the Boeing engineers to, you know, explain why the engine, or why the airplane crashed. You know, you don't do that if you want a neutral, you know, a neutral opinion. The second thing was that one of the motions that you guys voted 3-0 on was that, yes, there was an obstruction to the natural surface watercourse, and that it was deliberate. What you did not do that's a stumbling block, is you did not identify where this blockage or obstruction, where it begins. At least, as of this point, the engineer, the certified engineer is taking it that this obstruction to the natural surface watercourse doesn't occur until all the way down by my drain pipe. So, literally, the entire wall is fine, until you get to the very end. So, if that's what you guys had meant when you said, when you voted positively that this obstruction, you know, that you voted on the obstruction, if that's what you meant, then that's fine. I'll go from there, but, if that wasn't your intention, and you intended to vote that, yes, the entire wall is an obstruction, then that needs to be communicated to this engineer, because he certainly is not operating under that. So, I mean, what's the point of getting a plan that only has the last, you know, ten feet, or twenty feet of the wall taken down?

President Melcher: Jeff, do you have any comment on what he is saying?

Jeff Mueller: Mr. Plocik and I aren't going to agree, but when I even made my report it was that the last somewhere around 20-28 feet of the wall was an obstruction, the last 20-28 feet, not the whole wall. Mr. Plocik doesn't agree with that comment, but I looked at the way the drainage ran, where it runs parallel to the wall for a certain distance and then turns, and at that point that's where the wall is blocking it. That was in my Surveyor's report to the Board, and at that time we talked about having an engineer come up with an engineered plan to look at that.

President Melcher: Have you seen a plan?

Jeff Mueller: Not yet, that's what we're—

President Melcher: So, we're waiting on that plan?

Jeff Mueller: Yes.

President Melcher: So, I think we're probably still premature on this until we see a plan. You know, they could be doing whatever they want to do, but until we know they've got a certified plan that he's going to agree to, I think we're alright still.

Dan Plocik: Okay, I guess, my problem is, there's, you know, the whole idea of this was it was going to all be done in 30 days, and, you know, the construction would be done in the middle of September. It looks now that we won't even have the plan until the next meeting, and if it doesn't include the entire wall, something being done with the entire wall, then, clearly, I would not agree with that. So, we would still have some discussion even after that. So, this is going into, maybe even into next year before something actually gets constructed. So, I am concerned that, you know, this thing is really starting to drag out, particularly, you know, the fact that the Baker's no longer even own the property.

President Melcher: No, I....go ahead.

Commissioner Abell: Did we talk about having Area Plan Commission look at the height of that wall? Wasn't there a concern of ours that it may not be in, that might be violating an ordinance?

Jeff Mueller: The total height of the wall is over six feet, and according to Area Plan Commission, to bring it in compliance the fence would have to be moved back three feet. At that point it would be in compliance, because the wall itself is under six feet, and as long as it's under six feet it doesn't require an engineer to design the wall, and then the wall would be under six feet. Once you're five feet off of the, you've got to be five feet off of the distance, the setback distance, I couldn't think of the word. So, they have to move the fence back six feet, three feet off, so it's five feet off, and that way it's in compliance. Yes, I've talked to both the Area Plan Commission, and I also talked to Mr. Miller regarding the requirements for both the wall and the fence.

President Melcher: So, we don't know where that's at?

Jeff Mueller: Well, they know that they're going to have to move the fence. They, because that's an Area Plan issue they're out of compliance with. As I told Mr. Hines, anything they bring is going to have to show that the fence is not staying where it is. That is has to comply with the Area Plan, with our Area Plan regulations.

President Melcher: Okay, so, Joe, what do you think on the legal thing? Where are we at?

Joe Harrison, Jr.: Well, I agree, we've got to get the plan. Now, it's concerning to me that the plan has not been submitted yet. So, it better be submitted by September 10th, by the next meeting.

Jeff Mueller: Can I bring up one other thing about that? Not that this is an excuse, but the problem I think they're having is that because there's the previous landowner and the current landowner. Although as I've explained, the petition is against the Baker's. How the Baker's handle it with their buyers is their business, it's not for us to get involved in, it's not for us to negotiate. That's their business. I have expressed that, and, you know, they need to move forward with getting a plan in.

President Melcher: You're talking about the original owners?

Jeff Mueller: The original owners.

President Melcher: That was our understanding too.

Joe Harrison, Jr.: Right.

Jeff Mueller: Yes, and, you know, I don't want to hear about their issues with the new owners. That's between them. That's nothing that we get involved in.

President Melcher: Right.

Jeff Mueller: I'm not negotiating between the two parties or anything.

President Melcher: And, everybody got up and agreed to that.

Joe Harrison, Jr.: That was my understanding when we were here, what, six weeks ago.

President Melcher: That's why I asked them to come up individually and say yes.

Jeff Mueller: Anyway, so, that has been one of the problems, and the issue is, get a plan in. The Baker's need to drive the plan.

President Melcher: So, they need to bring the plan in by next month.

Jeff Mueller: Yes.

President Melcher: I mean, next meeting.

Jeff Mueller: I think they need to have something to me so that I can come to you by next meeting, yes.

Commissioner Abell: Right.

President Melcher: We agree to that. So, what do we do? Mr. Harrison, do you need to send them a letter?

Joe Harrison, Jr.: Yeah, I'll be glad to send a letter as well, and I think, Mr. Mueller, I talked to him today, I believe he's communicated with them, even, maybe even today or yesterday. But, I'll be glad to send the Baker's a letter and demand that it be in within, what, by next at least three or four days before the next meeting, wouldn't you say?

Jeff Mueller: Probably next Wednesday.

Joe Harrison, Jr.: Okay, well, you just tell me.

Jeff Mueller: That gives us three working days.

President Melcher: Well, I just think that if it comes from an attorney people move a little faster sometimes. I think if he sends it in there and then we have something going.

Jeff Mueller: I agree. I totally agree.

Joe Harrison, Jr.: We'll do it.

Dan Plocik: I just have one other comment to make, and I have some handouts, if you're interested.

President Melcher: Oh, we're interested. Just give them to us. I can't guarantee nothing.

Dan Plocik: This is in regards to the Evansville statute that specifies that a retaining wall of six feet, over six feet needs to be designed by a licensed engineer or a certified architect. I looked at many different municipalities throughout the country, I could not find any statutes anywhere in the country that would allow an individual to build a six foot, exposed height wooden wall, a wooden retaining wall, without a permit. Typically, that is restrictive to two feet, or, the other part of that is, if you look at the Evansville, or the Vanderburgh County rather, statute it uses the word "height", like somebody is supposed to know what that means. There are basically two engineering or building code terms that are used for building a retaining wall. The one is called "retained wall height", and the second one is called "exposed wall height". Every statute that I saw in the different municipalities, basically, used the building code standard of the "retained wall height". A "retained wall height" is measured from the bottom of the footer to the top grade, okay. So, in a wooden wall, if you build a wooden wall, your footer is four feet down, the post is four feet in the ground. So, if you make sense of that, then what that says is, if you have a six foot restriction, and you build it out of wood, then it fits pretty much the rest of the country that, yeah, you can build it two feet high and that's it. But, what I'm being told is that, oh, yeah, we've checked that out with the building people here in Vanderburgh County and that doesn't mean that, that means the "exposed wall height". "Exposed wall height" is basically the same as a fence height, from grade to grade. If you think about that for just a second, and I brought some pictures in my presentation, if you thought about somebody building a wooden retaining wall, and actually built it so that the exposed height was six feet, you know, it would be impossible for anyone to convince me that any responsible municipality means that. I can't believe that. The forces of wet soil on that wall, you know, and without a permit. I mean, it would be hard enough to do it with an engineer that was certified to build a wooden wall with this kind of construction that would actually be safe. So, my opinion is that not only is this wall not built to code, it is unsafe. I would like, personally, to see somebody, a real, true engineer that does retaining walls, you know, calculate what the forces are on that wall and say, yeah, that is a safe design, because I don't believe it's safe. You know, it's one thing to say that this wall may fail and lean over. I mean, I think it's clear that's going to happen, but what I'm more afraid is going to happen is a catastrophic failure of that wall. All it takes is one of those four by fours to snap, and then all the load now goes onto the remaining four by fours that are still there. It will all, it will go like a domino. The entire wall will just immediately crash. That's what I'm afraid is going to happen, and it will all end up crashing on my property, because he built it only two feet from the property line.

President Melcher: I don't know if that's an issue, Mr. Harrison, that's not our issue, is it?

Joe Harrison, Jr.: No, that would be a civil dispute between the parties, but as far as the requirement with the wall height, you heard Mr. Mueller, the Area Plan Commission enforces that, so does the Building Commission office, and they've given a different interpretation from your California references and your State of Washington references. So, I mean, that's just the way it is here. But, as far as the

engineering plan to be submitted, that needs to be submitted, you know, within the next week or so to Mr. Mueller, and he'll take a look at it and see if it complies with his recommendations and the order of this Drainage Board.

Dan Plocik: Okay, I understand.

President Melcher: Okay.

Dan Plocik: Thank you.

Other Business

President Melcher: Next, other business. Do you have the bids opened?

Joe Harrison, Jr.: Yes, I do.

President Melcher: Might as well do them under other business.

Joe Harrison, Jr.: There were two bids. Two different contractors had submitted bids. First was Naas Farms, Mark Naas, the East Urban north half, Crawford-Brandeis Extension, 1,965 linear feet, that bid amount is \$1,434.45. Their next bid was on the East Side Urban south half portions, that's Crawford-Brandeis, Hirsch, Kelly and Wabash Eerie, 15,035 linear feet. The bid amount is \$10,975.55. Ten thousand, nine hundred seventy five dollars and fifty five cents. The last bid that they submitted was on the Henry Ditch, 3,179 linear feet, and that bid amount is \$2,320.67. Two, three, two, zero, sixty seven. The next set of bids was submitted by McCullough Land Improvements, LLC. Their first bid was on the East Side Urban north half portion, that's the Crawford Brandeis Extension, that's 1,965 linear feet. That bid amount is \$1,843.17. Their next bid was on the East Side Urban south half portions, that's Crawford-Brandeis, Hirsch, Kelly and Wabash Eerie. The linear footage is 15,035 linear feet. That bid amount is \$7,307.01. Seven thousand three oh seven and one cent. The final bid is Henry Ditch, that's the entirety, 3,175, I'm sorry, 3,179 linear feet. That bid amount is \$1,735.73. One thousand, seven thirty five seventy three. I would ask that, if you would like, to take these under advisement and come back at your next meeting, unless you wanted to do it today.

Jeff Mueller: I'm fine with taking it under advisement. We won't get it done between now and then anyway, as far as the mowing.

Commissioner Kiefer: I'll make a motion to, that we take it under advisement then.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? Okay.

(Motion approved 3-0)

Ditch Maintenance Claims

President Melcher: Next, ditch maintenance claims. You should have a copy of those. The total comes to \$20,731.10.

Commissioner Kiefer: Move to approve.

Commissioner Abell: Second.

President Melcher: Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

President Melcher: And you're going to take care of them, right? Okay.

Public Comment

President Melcher: Public comment? There's only one person left from the public. Do you have a comment to make?

Jeff Mueller: Can I make two comments?

President Melcher: Yes.

Jeff Mueller: Back to Mr. Plocik. Just, one is, I've talked to Mr. Miller about this twice, and it's not just our code, our code matches the State code. So, he told me that that's being enforced exactly as it is in the State. So, I wanted to make that known. Second of all, when you talk about footers and having posts in the ground four feet, posts in the ground four feet are not a footer, that's more like a piling. I'm a structural engineer, I haven't practiced in 36 years, but I still remember my terminology. That's the only thing I have to say.

Commissioner Kiefer: Thank you.

President Melcher: Alright, thanks for your comment. If there isn't any other business, I'll entertain a motion to adjourn.

Commissioner Kiefer: Move to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: We’re adjourned.

(The meeting was adjourned at 7:14 p.m.)

Those in Attendance:

Stephen Melcher	Joe Kiefer	Marsha Abell
Jeff Mueller	Joe Harrison, Jr.	Madelyn Grayson
Jeff Arnold	Steve Bohleber	Dan Koch
Dan Plocik	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 10, 2013**

The Vanderburgh County Drainage Board met in session this 10th day of September, 2013 at 7:50 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board. It's September 10, 2013. It's ten minutes to eight. We should be home.

Pledge of Allegiance

President Melcher: So, let's rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the August 27, 2013 Drainage Board Meeting Minutes

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

Commissioner Abell: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Thank you.

(Motion approved 3-0)

**Approval of Bids for Additional Mowing:
Henry, East Side Urban N ½ Portion of Crawford Brandeis Extension,
East Side Urban S ½ S. of Regulated Drain along Norfolk Southern RR**

President Melcher: Approval of bids, the additional mowing Henry, East Side Urban north half portion of Crawford Brandeis Extension, and East Side Urban south half side of regulated drains along Norfolk Southern Railroad.

Jeff Mueller: Those bids on the second, the sheet right behind the agenda, you see the bidders. You see for the East Side Urban north half of Crawford Brandeis Extension, \$1,434.45 for Mark Naas. For the East Side Urban, the south half portions of Crawford Brandeis, Hirsch, Kelly and Wabash Eerie, the low bidder, McCullough Land Improvements for \$7,307.01. For the entirety of Henry Ditch, \$1,735.73. We've reviewed these bids and we feel comfortable with them. The only question I ask would be, should you approve them, if you would also approve that if we could stamp the contracts, Madelyn could stamp the contracts per normal. That's assuming you approve them.

President Melcher: Okay, is there any discussion? We talked about this at the last meeting, if I remember right.

Jeff Mueller: Yes.

President Melcher: Okay, I'll take a motion to approve it, and also be able to send out contracts.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Harper Ditch Culvert Cleaning: Norfolk Southern RR at Stockwell Rd.
--

President Melcher: Next we have the Harper Ditch culvert cleaning under Norfolk Southern Railroad at Stockwell Road, and use of Weights and Measures property adjacent to McDonald's Golf Course.

Jeff Mueller: You'll notice this time I did put golf course behind Mc Donald's. There was a little confusion there last time. If you'll recall, we talked about we have this problem in the Crawford Brandeis, or the Harper Ditch, and the railroad, we had talked to them about they would be willing to clean that out for us at no charge, but they have to have a place to take it. So, we talked to Loretta Townsend about taking it over to the Weights and Measures. You requested that I talk to the Mayor about that. In your packet you will find an e-mail from Mayor Winnecke, in which he approves the request. So, what we are requesting then is that we, the railroad, we'll talk to them about cleaning this out, and that is located at this point right here, and we will give them a place to dump the material over here. It's approximately a .93 mile haul. Okay, our cost then would be, after the material is on the ground and dries out, we would put out bids to a contractor to haul it off, they would supply a location and haul it off. The only question is, what is that going to cost? We estimate seven to ten loads, depending on what the contractor provides us with, you know, it would be, that would be the question on the location. You know, I'll throw a number out, I think somewhere between \$2,000 to \$5,000. I hope it would be closer to two. That would be considerably less, I believe that's what it would cost for us to clean out the project, plus we'd still have to haul the material off. So, I think this is a win-win situation. We seem, for right now, to have a nice relationship with the NS and they are willing to do this work for us. So, what I'm asking tonight, I guess, whatever approval I need to go back to the NS and say we're fine with it and we've got you a place to dump, realizing that I'll be coming back to you later for approval of bids to haul the material off two or three months from now. So, I don't know how we make that in a motion.

Joe Harrison, Jr.: Just, it seems to me that there would be a motion made to go along with your recommendation to proceed with discussions on the proposal.

Commissioner Kiefer: I'll make that as a motion then.

Commissioner Abell: I'll second it. Now, will you need to sign a contract with these people, with them or anything?

Jeff Mueller: We will have to put out bids for the folks to—

Joe Harrison, Jr.: Later.

Commissioner Abell: No, I mean, will you have a contract with the people that are going to clean out the ditch?

Jeff Mueller: The NS is going to do all of the ditch cleaning and they will hire a contractor.

Joe Harrison, Jr.: They'll do it.

Commissioner Abell: I understand that, but, I mean, are they going to want something in writing that says it's okay for them to get in there and do it?

Jeff Mueller: I'm going to find that out from them.

Commissioner Abell: Okay.

Jeff Mueller: Once, I , I guess, what I'm trying to do is kind of proceed forward, but I want to make sure that I do it in a proper manner and not get too far ahead of the game without your all's permission.

Commissioner Abell: I just wanted to make sure that if you need something in writing that you have our permission verbally to know that it will be followed up with something in writing, in case they ask.

Jeff Mueller: Okay.

Commissioner Abell: I second that motion.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

<p>IDNR Construction in Flood way Approval of INDOT Permit on Unnamed Tributary Pond Flat Ditch</p>
--

President Melcher: Okay, updates, the Burkett-Moore drainage.

Jeff Mueller: I'm sorry, just one other thing, Mr. Melcher. There is, in your packet, just a certificate of approval for construction in the flood way. This is something we got from DNR. Did I give you the wrong sheet?

President Melcher: Okay, it says construction.....no, you did. Flood way approval for INDOT permit?

Jeff Mueller: Yes, and I haven't had a chance to look at this.

President Melcher: The unnamed tributary—

Jeff Mueller: I'm sorry.

President Melcher: Okay.

Jeff Mueller: They mailed this to the Drainage Board, so, I'm officially giving it to you as the Drainage Board, and I'll look to see if there's anything in there that gives us headaches or not. It's essentially to do some work underneath some bridges on Highway 41 up in the northern part of the county. I don't have anymore details than that right now.

President Melcher: So, we're not voting on this tonight?

Jeff Mueller: All we're doing is I'm giving you a copy of this, yes.

President Melcher: Okay, thank you.

Commissioner Abell: Okay, thank you.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Now we'll be on the update of the Burkett-Moore drainage petition.

Jeff Mueller: Okay, on Burkett and Moore, we got a plan back from Cash Waggner, looked at it, requested a few, took it out to the Burkett's, they requested a few changes. We've made those changes. I took it over to Jay Stucki who's been kind of acting as a representative for Mr. Moore and discussed it with him yesterday. Everyone seems to be on the same page with this. So, I think, what I'm saying is we have an approved plan, we have some folks that are waiting for my phone call tomorrow to move forward. The only request is that the work was supposed to be done by September 15th and we're kind of close. Mr. Stucki did ask if they could extend that to September 30th. So, I guess, what I'm saying is I've got an approved plan, I'm asking for us to, the only thing would be from your previous motions that we would extend the date from September 15th to September 30th to allow for the completion. Otherwise, the plan, we went through a number of things that it was supposed to be, so much pipe removed, slopes and only two and a half feet of cover and everything, all those things are in the plan. That checklist is there.

President Melcher: Alright, that sounds reasonable. I need a motion.

Commissioner Kiefer: Motion to approve.

Commissioner Abell: To extend to September 30th?

Commissioner Kiefer: Yes.

President Melcher: Extend it to the 30th.

Commissioner Kiefer: As stated.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Plocik-Baker Drainage Obstruction Petition Update
--

Jeff Mueller: Alright, next I have an update on the Plocik-Baker drainage petition. We had, the Baker's performed a study by Mr. David Hynes of Commonwealth Engineering that came in, requested a few changes of that. I have a plan from him. I took that plan to Mr. Plocik yesterday. Mr. Plocik is here tonight. I think Mr. Plocik will tell you that he does not agree with the plan. I don't know what to tell you beyond I think that, I believe that the plan meets the criteria of what we're trying to do. Like I said, Mr. Plocik is going to disagree.

President Melcher: Okay, but your opinion to this Drainage Board is that you think we need to accept the plan?

Jeff Mueller: Yes.

President Melcher: Okay. Would you like to say something to that, Mr. Plocik?

Dan Plocik: (Inaudible. Not at microphone.)

President Melcher: Well, I don't know what you're going to say any different than you already have.

Dan Plocik: It addresses the plan.

Commissioner Abell: Let him come up. I can't hear you.

President Melcher: Why don't you come up and talk—

Commissioner Abell: I can't hear him.

President Melcher: — so we can hear you.

Jeff Mueller: Just one second. Let me get out of this.

President Melcher: We'll give you a few minutes, 15 minutes is kind of long. We've already addressed this a couple of times.

Dan Plocik: If you like, I can skip directly to my major concerns about the plan.

President Melcher: Okay, about the drainage part, because that's what we're here for, so address us on that.

Dan Plocik: Okay. Let's see, let me just scroll through this quickly. Okay, I've reviewed the Hynes plan yesterday, you know, so I've had, you know, just really not a lot of time to look at it. I can say honestly that it's not clear to me that I understand 100 percent of it. A few things are really clear to me, first of all, it calls for a two foot wide V trench, six inches deep at the V, which is basically a three inch average depth to be dug to carry away the channelized water. When this picture was taken it wasn't even raining hard, and you can see the stream of water is four feet wide. I accidentally stepped in it and I know it was about six inches deep. I'm expected now to believe that a two foot wide channel, that's on average three inches deep is going to re-channel this water? I don't believe that for a second. A few things also that are wrong with this plan. It calls again for this two foot V trench to be dug out under the retaining wall. What that does, basically, is it alters the structure of the existing fence/retaining wall. I know you don't care about the structure of the wall, but if in approving this plan you have basically created a more unsafe situation than already exists, I think that is something that's in your purview. The Building Commission report, which if you like I have a copy of it, but it doesn't sound like we're interested in seeing that, the Building Commission report says that there is concern that the wall may fall into the trees and lawn next door. I believe that undercutting the base of this fence and wall even further weakens it. If we approve this plan, I think in essence you're approving the altering of this wall. I don't know if Mr. Hynes calculated the wall safety factor. If he did, then I would certainly like to know what is the safety factor of this wall. One of the things that the letter to the Isaacs was that they are requesting, the Building Commission is requesting that the fence/retaining wall be rebuilt or a designed by a professional, issue a report on the safety of this structure. I guess I'm interested to know if Mr. Hynes is willing to supply this report to the Building Commission. Again, if we approve this, you know, if we approve this plan, in essence we are saying that it's not unsafe. What's wrong with the Hynes plan? It calls for a two foot V trench to be dug out and grass planted. The new owners will have to maintain a two foot V trench, 125 feet long. This trench is most likely going to have to be cut manually. I'm not sure with a weed whacker, maybe with a push mower. A two foot trench down the property line will lower the property value, as well as introduce a safety risk. This V trench, people are going to be trying to, you know, walk through it to mow the grass or whatever. It's going to be slippery, people could trip, slip. Does anyone believe that the erosion won't be a constant problem? It may start out as a two foot V wall, or V trench, but it's not going to stay two feet wide, and it's not going to stay a V trench. What's wrong, the plan calls for a three foot wide grass strip, 95 feet long between the vinyl fence and the fence wall. Basically, there's, the wall it doesn't move and now the fence has to move three feet over. So, this creates a strip of land, a strip of grass that has to be maintained. Exactly how is it going to be maintained? If someone is trying to use a push mower to cut that strip, they're basically elevated five feet above the ground with a tripping hazard being the wall itself, you know, the toe board of the wall. As far as I'm concerned, I can easily see somebody trying to cut that grass and slipping and falling and falling on to my property, which makes me liable now. So, again, if you approve this plan, I think you're introducing additional risk liability on me. The plan calls for grinding the 15 inch diameter stump of the walnut tree to eight inches below grade. This walnut tree has provided shade for my deck from the setting sun, and I intend to plant another tree there. I'm not sure exactly how I'm going to be able to plant a tree if all that's done is the stump is ground. I had thought that the Board previously ruled that the stump be removed. I'm not sure that grinding it means to be removed. Then, even if I can somehow manage to plant a tree in this location, what's going to keep it from dying again after water flows over it again? Mr. Hynes is an agent of the Bakers'. He was hired to represent their interests. Since, in the last two months, basically since the last time I was here to speak with you, I have

met with Mr. Hynes one time, it lasted about five minutes, he asked me one question, that question was, where is your septic drainage bed, and that was it. This plan lowers both my property value and the Isaac's. It isn't even a band-aid. It exposes me to potential new liability. If you approve that, you're basically saying that that's fine. I think these are indisputable facts. Okay, first of all the Drainage Board voted 3-0 that an obstruction of the natural watercourse exists. The Drainage Board voted 3-0 that the Bakers intentionally created it. The drainage map provided by Mr. Hynes clearly shows that the natural surface watercourse was sheet flowing diagonally across the property line. There was absolutely no naturalized, natural channelized flow. I have the drawing that was given to me by Mr. Mueller. I've marked it up to show—

Commissioner Abell: Would you give him that microphone? Madelyn, would you give him that microphone?

Dan Plocik: Okay, if you look at the...oh, if you look at this drawing, all of the lines here are ISO lines that basically all identify a constant elevation. So, if you draw a line perpendicular to those lines, that's going to tell you what happens with the water. If you look at this, you can see a couple of interesting things. First of all, pretty much all of the lines, this is the property line right here where the fence is, okay. You can see that the, all of the black arrows are pretty much in parallel, meaning that's sheet flow, it's not being channeled in one particular direction or another. The direction of those arrows is diagonal. Again, here's the wall, and the original channel of water is diagonal. The whole way down the line, okay. It doesn't start down here, it starts up here. The entire wall is obstructing the natural surface watercourse, not just the very bottom. There was never any channelized water flow along the property line.

Commissioner Kiefer: Jeff, what comment do you have on this?

Jeff Mueller: I've got a very good comment. I'm not sure where Mr. Plocik is going. By Indiana law, we are not talking about sheet flow, we are talking about an obstruction to a natural surface watercourse. Which is defined, it means, "an area of surface of the ground over which water, from falling rain or melting snow, occasionally and temporarily flows in a definable direction and channel." So, if you're talking about sheet flow and no channel, then there is no obstruction, because the law does not deal with sheet flow and obstructions of sheet flow. It deals with obstructions to natural surface watercourses and drains. So, you have to decide which way you want it, Mr. Plocik, because that is the way I defined it. I looked down there, there's water going down the hill, there's a channel and when the channel got down to the bottom that's where it was being obstructed. That's the definition in the law, it's not what you call or my interpretation, it's what's stated in the law 36-9-27-4.3. So, that is my definition, that's how I defined it in my report to the Board, and that's how I defined that there was an obstruction. It doesn't talk about sheet flow. I'm sorry.

Commissioner Kiefer: Thank you, Jeff.

Dan Plocik: Well, I'm not sure that, you know, there's much point in me continuing to talk. It sounds like everything has already been decided. I don't agree with this. I don't believe that Indiana law allows anyone to build a dam or retaining wall along the property line and shunt water from coming on to their property and keeping it on the neighbor's property. That's exactly what has happened here. I don't believe Indiana law allows that. Now, I don't know what else to say, but I've never lived anywhere in my life where it was legal to build something along the property line like

that and shunt water from coming on to your property or keeping it on your property. But, maybe I just didn't know I lived some place like that before.

Jeff Mueller: I would like to address one other point here. Whether it is legal or not, I don't know the other laws, but as far as the Drainage Board, as far as what this Drainage Board deals with, as far as the definitions, that's what we deal with. Whether there's some other recourse that you have and some other drainage ordinance, I don't know, but that's the drainage ordinance that I deal with, it's the one that this Board deals with, and it's the one that your petition was filed under.

Dan Plocik: Okay. I don't know what else to say.

President Melcher: So, I guess, I'm sorry I missed part of that, but I just couldn't wait any longer. Basically, you're saying this is worse than what it is right now?

Dan Plocik: I think that this plan, from the standpoint of only how the drainage will affect me—

President Melcher: That's what I'm asking.

Dan Plocik: Okay, I think it is definitely an improvement.

President Melcher: Okay.

Dan Plocik: I am concerned that this plan introduces liability to me that I don't currently have. I am concerned that somebody will be up on the top, from the Isaac's, trying to cut that grass and trip over the edge of that retaining wall and fall five feet and maybe seriously hurt themselves, maybe kill themselves. I am worried about that. That's something I don't have to worry about now, because there's a fence right there. That vinyl fence prevents, well, it prevents anyone from falling off the wall, first of all, but, second of all, you know, it makes it unnecessary to have to do any of that kind of trimming. The fact that it's three feet wide, you know, it would be hard for me to believe that you could do that trimming from the lower level. How could you reach out three feet, and what would you reach out with in order to cut that grass? As far as the wall is concerned, I believe what will probably happen is as this plan is followed through, and as soon as the very first post gets pulled out, my guess is that it's not going to be four feet deep, and the building inspector will basically require the entire thing to be rebuilt. But, I don't know that, because, you know, I don't know that it's not four feet deep, but the fact that it's bent over four and half degrees, or four and a quarter degrees, it's leaning like this. I don't see how it's very likely that those posts are four feet down.

President Melcher: Okay, I think the issue we have is just the drainage part, is that right, Joe?

Joe Harrison, Jr.: Yes.

President Melcher: The obstruction.

Joe Harrison, Jr.: I mean, if, and I don't know if you're saying this, but if you're saying you don't want this plan, you don't want any plan—

President Melcher: That's where I was going. That's why I asked that question.

Commissioner Kiefer: Any plan that has the wall–

Joe Harrison, Jr.: Well, why don't I say, if you don't want this plan, I think you'd better, I mean the bottom line is they've spent a lot of money, they've tried to comply with his recommendation. If you want to withdraw your petition, that's a whole other issue, but otherwise, you filed your petition, the recommendation, I sense from Mr. Mueller, is to approve the plan that's been submitted by the Bakers. I mean, I think he's recommending that it go forward. I guess, it won't go forward if you say I'm withdrawing my petition. I don't know if you want to do that, or if you just want it to go ahead and see what happens.

President Melcher: That's why I asked you that question, because it sounded like to me, in the beginning, that you didn't want this plan. But, if it's going to help your drainage, then you–

Dan Plocik: It will definitely improve the drainage.

President Melcher: Then, if I was you, I would take it, and what happens happens. We can't control that. If the Building Commissioners can, they can, but we can't. By law, we can only do what we have in front of us. We've done everything so far on what we can do here.

Dan Plocik: Okay.

President Melcher: But, sometimes you hit a point–

Dan Plocik: You know, I understand your point, and I accept that this is an improvement to the drainage. It will probably get rid of 90 percent of my drainage problem. I don't believe it will get rid of all of it, because I think that little channel, that little two foot wide channel, that's a joke to think that that's going to handle the water that comes down that line now. But, it still, it moves it at least a foot or two away from my trees. So, yeah, it's going to help a lot.

President Melcher: I think, on your tree, we had a zoning not too long ago that talked about all kinds of trees that can kind of grow in wet land, and they were like flower trees and maybe some fruit trees and stuff. So, I think you could find some trees that could grow in that.

Dan Plocik: Yeah, I'm sure.

President Melcher: But, right now we have to either vote for this, or you have to withdraw. If I was you I wouldn't withdraw it. So, because our Surveyor, we have to go by him, he's the expert on this to keep us legal. So, we have to take his, that's why I asked him that question right off the bat. So, I think it's time....did anybody else in the audience want to speak to this? Or not speak to this before we–

Commissioner Kiefer: I would like to make a comment. I know David Hynes, I've known him for a number of years as a high quality engineer, and, you know, I do have some faith in his recommendations, knowing the quality of work he's done as an engineer. So, I just wanted to express that.

President Melcher: Okay.

Jeff Mueller: One thing I wanted to be sure of, so we're clear on, if we accept the plan, most of the work is going to be done on, I'm going to call it the Baker's property, the previous Baker's property, but you're going to be working right on the property line. So, is there going to be an issue with their contractor, when he's, I don't want to have a trespassing situation. I mean, these guys have got to work within reason and not go tear up your half acre.

Dan Plocik: I'd already sent you a letter--

Jeff Mueller: Well, that was for the engineer, but, I mean, I'm saying--

Dan Plocik: I think I wrote it to where it's also for any contractors.

Jeff Mueller: Okay. We also understand, so the Baker's, again, so, we want to make sure of this, qualified, dirt contractor licensed in Vanderburgh County, which, I think--

President Melcher: That's what we said.

Jeff Mueller: Yeah, we've been saying that before, I wanted to make sure. I couldn't remember if we'd said it before, but, again, just to reiterate it.

Joe Harrison, Jr.: And, Mr. Plocik, did indicate that he would permit construction workers on his property.

Dan Plocik: That's the letter I sent--

Joe Harrison, Jr.: Okay, thank you.

Jeff Mueller: Okay.

President Melcher: Okay, so, we're all clear. Are we ready to vote?

Commissioner Kiefer: Yeah, I'll make the motion to approve the plan as submitted and recommended by Jeff Mueller.

David Hynes: Excuse me a second. If I could address the Commission.

Commissioner Abell: Let me second the motion. Now you can.

President Melcher: State your name and stuff.

David Hynes: Yes, my name is David Hynes. I'm a resident of Vanderburgh County, reside at 10345 Seib Road. I'm the engineer of record on this. The only thing the Baker's wish to bring to the Board's attention is that our, I guess, their deadline is September the 15th. Obviously, there's a tremendous amount of work that needs to be done. Contractors need to be hired, and I know that they've already talked to a few people about lining up the appropriate people to do the work, but they're going to need at least an additional two weeks, if not one month to complete this.

President Melcher: So, we need to extend it to the 30th.

David Hynes: That would be appreciated.

President Melcher: Or whatever.

Commissioner Kiefer: So, I need to amend my motion to add that time in there?

President Melcher: No, we could add....it don't matter.

Commissioner Kiefer: I don't know, that's what I'm asking.

Jeff Mueller: Yeah, I think amend your motion to a completion date of....what are you asking for?

Joe Harrison, Jr.: When can you get it done? I don't want to come back again.

David Hynes: We would like to have it for October the 15th. So, 30 days.

Commissioner Kiefer: Okay, then I will amend my motion to reflect a completion date of October 15th.

Commissioner Abell: And, I'll amend my second.

David Hynes: Thank you.

President Melcher: Any further discussion? Do you want to call the roll?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Other Business

President Melcher: Next, other business. Do you got any other business?

Jeff Mueller: Just on the Millersburg Road drainage, and it will be very quick. Just so you know, I have told those people out there, and told those people out there what's done is done. The ditch is there. We're not going to do anymore work. The County Garage did a great job cleaning it out. We're not taking over the ditch. We're not building a ditch on Millersburg, and everything else. One of the people that was here on the last meeting from Warrick County was actually here for that, but they are going to, I think, be here at the next meeting. I told them that if they want to come under public comment, fine, but I've also told them, you guys, we're done. We've done what we can do on that ditch. So, I just kind of wanted to forewarn you on that issue.

President Melcher: We're done.

Jeff Mueller: Yes, okay.

Commissioner Abell: We're more than done.

Jeff Mueller: Only one other issue, just so you know, is that it's not on here, but I am still waiting for a drainage plan on Perry Heights Middle School. They sent me a set of drawings last Friday, sent me a drainage report last Tuesday night at 9:00. I looked it over and got comments back to them on Wednesday. I actually sent them an e-mail back in August saying, they asked me if there was anything that needed to be done, and I said, yeah, you guys have got to submit a drainage plan. So, I just wanted to let you know I am pushing for them to get me a drainage plan to meet our code.

President Melcher: So, in other words, you're finished now?

Jeff Mueller: Yes, sir.

President Melcher: Nothing else?

Ditch Maintenance Claims

President Melcher: According to this there's no claims.

Commissioner Kiefer: Move to adjourn.

President Melcher: We have a motion to adjourn. Do we have a second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: We're adjourned. Thank you.

(Motion approved 3-0)

(The meeting was adjourned at 8:24 p.m.)

Those in Attendance:

Stephen Melcher

Jeff Mueller

Dan Plocik

Members of Media

Joe Kiefer

Joe Harrison, Jr.

David Hynes

Marsha Abell

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 24, 2013**

The Vanderburgh County Drainage Board met in session this 24th day of September, 2013 at 6:01 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and open up the Drainage Board. Marsha should be in here in a minute. It's September 24, 2013, it's about two minutes after six.

Pledge of Allegiance

President Melcher: If we could all rise. Jeff, would you lead us in the Pledge?

(The Pledge of Allegiance was given.)

Approval of the September 10, 2013 Drainage Board Meeting Minutes

Commissioner Kiefer: I'll make a motion to approve the previous minutes.

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

Commissioner Kiefer: Aye.

President Melcher: Aye.

(Motion approved 2-0)

**Modification to Drainage Plan: Keystone Lots 342, 343 & 344
Installation of French Drain**

President Melcher: Modification to a drainage plan, Keystone lots 342, 343 and 344, installation of a French drain. I'd never heard of that word until the last couple of years.

Jeff Mueller: Yeah, a French drain, now we're beating it to death.

President Melcher: All of a sudden everybody wants a French drain.

Jeff Mueller: Yes.

President Melcher: Can you come out to my house and see if I can get a French drain in my creek?

Jeff Mueller: Yeah. If you'll remember, back on the June 28, 2013 meeting we talked about trying to make things a little simpler, because we do have people that want to put French drains in, we do have people that want to do it the right way. So, what we put together was a little letter and a checklist for folks that could come in to put a French drain in, in their drainage easements. This is not changing the ditch at all, whatever swale is behind their house. All they're talking about doing would be going underneath the swale and putting in a French drain system so that the water that's

in some of these nice lots, like out at Keystone and stuff where you've got, the water drains out, but you've still got standing water, is to get that water away. We put together a letter and a form, and Mr. Koch was my guinea pig on this project, because he has approached me with wanting to put a French drain in, and I appreciate these folks, because unlike some people that just go out and start doing things in the easement, these folks have come in and asked for permission and they want to do it the right way. So, they have submitted the paperwork to me for this. Mr. Koch is here, Mr. Bragin, they are two of the three lot owners that want to put this French drain in. So, all we're doing is just asking for an amended, a small, amendment to the drainage plan for Keystone for these three lots to do that. I recommend that the Board approves it. They're here if you've got some questions, or I'm free to answer questions.

President Melcher: Do you got any questions?

Commissioner Kiefer: No, I don't have any questions, but I want to thank you. I like the drawing that you put in back here of the French drain. That helps me to understand what it looks like.

Jeff Mueller: Okay, yeah, that was taken off of our standard, we put together a standard drawing and they just kind of filled in the numbers.

Commissioner Kiefer: Right, so that looks good. I'll make a motion to approve, as recommended.

President Melcher: I'll second. Call the roll please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 2-0)

President Melcher: So, it passes. Thank you.

Jeff Mueller: Again, thank you for coming in and asking us to do that. We appreciate that.

President Melcher: Okay, you don't have to stay for the rest of it, unless you want to.

Al Bragin: Even if we want to?

Jeff Mueller: Al goes to church with me. He might want to just torture me.

President Melcher: Okay, next we have a—

Madelyn Grayson: I think he has a comment.

President Melcher: —okay, go ahead. No, no, come on. You'll have to say it in the microphone so that we get it on the record.

Jeff Mueller: Yeah, you'll have to say your name, Mr. Koch, so they know.

Bob Koch: I want to put a little humor in this. If you noticed, it's a French drain, but all of the wording is in English.

Jeff Mueller: Good luck.

Bob Koch: Thank you.

President Melcher: Thank you.

**Request by Warrick County Surveyor for Funds to Assist Cleanout
of Howard Williams Ditch (Weinsheimer Ditch in Vanderburgh County)**

President Melcher: Okay, we had a request by the Warrick County Surveyor for funds to assist the cleanout of Howard Williams Ditch, Weinsheimer in Vanderburgh County. Do you want to talk about that?

Jeff Mueller: Yes, I do. On your photo there, this is Lincoln Avenue, I-164, and this is the county line. By Vanderburgh County's terms this is called Weinsheimer, and Warrick County calls this Howard Williams. The ditch starts here at Lincoln Avenue, there's an apartment complex here, there's a storage place over here, the ditch comes up and it runs right along the county line. At that point it then goes under some pipes and goes around the Deaconess Hospital. We have, as you're aware of, we collect funds from different entities for, you know, different areas, and the Weinsheimer is money that we collect here in Vanderburgh County, we've been collecting it for a long time. Right now that account's got \$13,610 in it. When I went back through our records, there's not been any money spent in it since 1997. We wouldn't be doing any work, all we're actually doing is part of the watershed is in our area, so we are just collecting monies for eventually for Warrick County to use. In the past, it's been my understanding that Warrick County has requested monies from us before, but they never provided us with anything. Now, they've went out and they've bid the work, they have a quote for \$8,700. That's in your packet there, and they've made a formal request that we would pay 50 percent of that. So, we would be taking \$13,000 and we would be spending, if my math is right, \$4,350 once they're completed. It would be to assist them on cleaning out that ditch. Now, that ditch is on the county line, it does benefit, we do tax people in Vanderburgh County for that, and it does benefit some Vanderburgh County, the apartment complex, and there's a hotel or motel right here. So, it benefits folks in Vanderburgh County, we collect tax off of it. Like I said—

Commissioner Kiefer: So, you're recommending that we do this?

Jeff Mueller: Yes, I am.

Commissioner Kiefer: And, let me ask you this, they'll handle all of the work, all we've got to do is give them the funds?

Jeff Mueller: Right.

Commissioner Kiefer: Okay, I'll make a motion to approve.

President Melcher: I'll second it. Okay, and as far as questions, we're going to just pay half?

Jeff Mueller: Yes.

Commissioner Kiefer: Yeah, so, let's make sure the motion includes that we'll pay up to 50 percent of the amount that was quoted.

Jeff Mueller: We wouldn't pay it until after they invoice us, correct?

Commissioner Kiefer: Until after they invoice us, yes.

President Melcher: And, did they only get one bid?

Jeff Mueller: I don't know if they got more than one or not. This was the bid that they've accepted. I don't know if they did any others or not.

President Melcher: No, I'm okay, but, I think, in the future, they probably ought to go ahead and give us all three of the bids and check off the one that they approved.

Jeff Mueller: Okay.

President Melcher: What do you think, Mr. Attorney?

Joe Harrison, Jr.: No, that sounds appropriate.

President Melcher: That way we know—

Joe Harrison, Jr.: At least we know they did it.

President Melcher: That way if somebody comes in and says, oh, you gave 50 percent of our money away without a bid, that could have been a brother-in-law.

Jeff Mueller: Yes. Good point. I totally agree. Sorry about that.

President Melcher: No, no, no, we're all learning.

Commissioner Kiefer: Okay, so, is the, do I need to amend the motion to—

Joe Harrison, Jr.: No.

President Melcher: No, no.

Commissioner Kiefer: Okay.

President Melcher: We'll want a roll call vote.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 2-0)

**Final Drainage Plan Approval: EVSC Perry Heights Middle School
Gym Addition**

President Melcher: Okay, next, final drainage plan approval of EVSC Perry Heights Middle School gym addition.

Jeff Mueller: What we're requesting is that the drainage plan, originally done December 13, 2011, revised March 31, 2013, and revised again September 20, 2013. The plan consists of this set of computations and drawings, 16 drawings right here be approved. There is a letter in here from Structurepoint, I would like to point out that they are requesting two modifications to our code, both of which I recommend. One is, is that, if you can envision, normally when we have a dry basin, it would look like this, it would be the slope's at the bottom and then coming back. Normally we require a concrete liner, what the School Corporation is going to be doing is, instead of that, they're going to take the bottom, they're going to excavate it out, they're going to put a French drain in—

Commissioner Kiefer: I told ya it looked like a French drain.

Jeff Mueller: – sand in that, and then instead of planting grass, they're going to plant some species of some different, I'm going to call them wetland species. I got on the internet a little bit, it's what I would call weeds if it was in my yard, but it's that good stuff that everything likes. So, they're actually creating a dry basin, but instead of a concrete liner in the bottom, they're going to have sand going to a French drain, and instead of having grass in the bottom, they're going to have these species, there's a list of the different plants they're going to have. The reason I want to specify this, is I don't want every developer coming in saying, ooh, I just want to not put the concrete drain in. These guys are doing something extra, beyond, they're not just asking not to put the concrete drain in. They are putting a French drain in, in place of it. I think it will be a nice looking dry basin, because there's going to be some wildlife plants in it. So, I would recommend that we accept the drainage plan. The calculations and everything have been done properly. Roger is here from the School Corporation if you've got any questions of him.

Commissioner Kiefer: The only question I've got is, what, when you've got a French drain set up like this with trees and such planted above it, what keeps the root system from going inside the French drain?

Jeff Mueller: Those trees are probably not, that's not real good, because when you look at their planting list, because I had that same question, we're talking about shrubs that are like 18 inches tall—

Commissioner Kiefer: Right.

Jeff Mueller: – we're not talking about big trees. That's why, when I first saw this drawing, I'm like, what are you doing planting trees in? So, that's when they gave me this plug species list, and it's actually these sedges and these wildflowers that are going in there.

Commissioner Kiefer: Okay.

Jeff Mueller: So, yes, because I had that same problem, Mr. Kiefer. I'm like, yeah, what are we doing here?

Commissioner Kiefer: Yeah.

Jeff Mueller: Because, I don't want to have trees in detention basins, but this is more of a wildlife sort of planting.

Commissioner Kiefer: Yeah, just the picture makes it look more like a—

Jeff Mueller: I agree.

Commissioner Kiefer: Okay.

Jeff Mueller: I agree, and, like I said, I had that same question and that's when they said, no, here's what we're planting. They gave me a list.

Commissioner Kiefer: Okay. With that, I'll make a motion to approve.

President Melcher: I'll second. The only question, they haven't got this done yet have they?

Jeff Mueller: No.

President Melcher: Well, I mean, I know the School Corporation. So, that's why I'm asking you.

Jeff Mueller: Roger's worked very well with me.

Roger Lehman: Now, Steve, (Inaudible. Not at the microphone.)

President Melcher: We're ahead of the curve, right? That's okay with me. Roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Commissioner Abell: Did you forget my name?

President Melcher: She didn't know if you wanted to vote or not, or if you was going to abstain.

**IDNR Construction in Floodway:
Approval of Three INDOT Permits for Pond Flat and Unnamed
Tributary Pond Flat Ditch**

President Melcher: Okay, next, well, you can take it from here. Oh, no, never mind, IDNR construction in the floodway approval of the three INDOT permits for Pond Flat and unnamed tributary Pond Flat Ditch.

Jeff Mueller: Probably, I'm going to apologize, because I said approval, and when we're talking about approval it's their approval. I'm not asking for your approval. Last meeting we got a DNR construction in a floodway permit. We're kind of like, okay, we've got one, but we're not sure what's going on here. Then we got two more. DNR, and I apologize, this is not my map, because I slap engineers that put, that don't put north arrows at the north end, but we got the north up here to the right. DNR's proposing to do some bridge work on Highway 41 and they are proposing to do some work in three regulated drains. That's what this permit information is about. I got some drawings on it, I've also gotten a concern from one of the farmers. Since they are regulated drains, we could ask, and we may want to ask them to come in and tell us what they're doing exactly and see if we want to give an approval or not to this. But, I guess, right now, all I'm saying is I've got three construction in floodway permits, I've got one farmer that's concerned on one of the ditches that I'm going to meet with tomorrow, but we may want to be asking them to come in and explain to us a little bit more, and maybe have some more input into this project. Rather than just taking these construction in floodway permits and putting them in the drawer, I kind of want to find out what's going on with them. Like I said, I have had one person that's concerned about what they're proposing. So, which is to put some rip rap in the ditch where it's already there, and he's concerned it's just going to plug up more. So, I'll find out more and get back with you on this.

Commissioner Kiefer: So, you're not asking for anything?

Jeff Mueller: Just an update.

Commissioner Kiefer: An update, that sounds good.

Joe Harrison, Jr.: There were just two of them?

Jeff Mueller: Well, there was one that was given to us last week.

Joe Harrison, Jr.: Okay, and, again, this is the same thing where it says near Haubstadt, Scott Township, Vanderburgh County.

Jeff Mueller: I don't know why they use that, unless it's just because it's the Haubstadt Quad, which is probably the case.

Joe Harrison, Jr.: Okay.

Jeff Mueller: It is the Haubstadt Quad, so, I'm assuming that's why it says that on there.

Joe Harrison, Jr.: But, you understand why I'm asking?

Jeff Mueller: Yes.

Joe Harrison, Jr.: I'm just curious if that's the way it's—

Jeff Mueller: I think it's because it's the Haubstadt Quad.

Joe Harrison, Jr.: Okay.

President Melcher: So, what's your recommendation, to wait until INDOT can come in and explain to you?

Jeff Mueller: I'm going to find out what's going on, and we may, I guess, my recommendation is we may want to ask them to come before us and request a permit. Because those permits do say that, they've got a permit from DNR, but they may need to also get a permit from us. I guess, I'm kind of wanting to leave that option open.

President Melcher: Well, then why don't we just make a motion to give you the okay to go ahead and do it if you feel like you have to do it, so you don't have to wait for another meeting.

Jeff Mueller: Okay.

President Melcher: Is that fair?

Commissioner Abell: Fair enough.

President Melcher: Okay, go ahead.

Commissioner Kiefer: I'll make that motion as stated by Commissioner Melcher.

Commissioner Abell: Second.

President Melcher: Okay, roll call vote please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Jeff Mueller: And, I'll bring you an update on what's going on.

President Melcher: Right, if you find out and you need it, then you can say I've got the authority to have it. We'll set it on a meeting.

Jeff Mueller: Okay.

Commissioner Abell: Does that have anything to do with that development that's going on at 41 and 64?

Jeff Mueller: No. I think, it looks like what they're doing is they're redoing the railings on the bridges, but at the same time they're also correcting some scouring problems underneath the bridges, but, from what I can tell, I'm not sure if they're correcting the scouring, or if they're just throwing some more rip rap at it. That's what the concern is of Mr. Rexing who called me. Like I said, I'm going to meet him tomorrow, and he's going to kind of talk, we're going to talk to him a little bit. I've been dealing with a consultant out of Indianapolis, so I'm trying to get everybody, I'm trying to find out...I kind of had to do some digging to find out what's going on here.

President Melcher: Who's the consultant? You don't have to tell me.

Jeff Mueller: Yeah, I don't remember.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Okay, why don't you take it from here on these updates.

Jeff Mueller: Okay, on Burkett-Moore, I just wanted to let you know that that work is scheduled for this weekend. So, they've got Kip from Staub's to do that work. So, hopefully, by the next meeting I can report to you that work is done.

Plocik-Baker Drainage Obstruction Petition Update

Jeff Mueller: On Plocik-Baker, the Baker's have hired James McCullough, who does a lot of work for us to do the work there. He is scheduled, pending weather, to begin work October 3rd, October 4th. If you'll recall, we gave them to October 15th to have the work done there. So, right now, on both of those petitions they are scheduled to have the work done by their completion dates. That's where we're standing right now. Hopefully that will happen.

President Melcher: Okay.

Other Business

President Melcher: Any other business? We had a hand raised back here.

Jeff Mueller: They've got some, we've got two folks here, I think they want to talk to you about the Millersburg Road deal.

President Melcher: Okay.

Approval of Ditch Maintenance Claims

Jeff Mueller: I do have some maintenance claims though.

President Melcher: Okay, well, then, if you have that, we'll probably need a motion to approve them.

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

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0.)

President Melcher: Do you got them?

Jeff Mueller: Yes.

Public Comment

President Melcher: Okay, public comment. If you would like to come up now. Please state your name, so, we keep everything on tape. Name and address, and if both of you speak, whenever you're speaking kind of speak into the microphone. If somebody is on the side you can't hear it later, if we wanted to hear it.

Kenny Fehd: My name is Kenny Fehd. I am here to request that the Commissioners put on record, have recorded the Wagner Ditch, which borders Millersburg Road, and then enters into Vanderburgh County. That is my first request, that it be recorded.

President Melcher: Okay, Jeff, do you know anything about this?

Jeff Mueller: Excuse me, Mr. Fehd, I need to use the mic. I'm not, okay, the ditch that I think you're talking about is the ditch that runs along the north side of Millersburg Road, from Vanderburgh County, it's right there at the county line road, it goes up and then it turns and goes underneath I-164, it turns and goes up through the fill project on the north side of Millersburg Road. Okay, I brought this to you all before, as a matter of fact, if you want to give me a minute I can throw up the map on where that's located. That's the project where we cleaned the ditch out.

President Melcher: Okay, we need, can you let him bring it up so we can see it, what you're talking about?

Jeff Mueller: I'm going to bring it up on the computer.

President Melcher: He's going to bring it up so we can see it. He's got to get where you're at. We're going to get you some binoculars.

Jeff Mueller: I know.

Commissioner Abell: Oh, Millersburg drainage, right up there at the top left.

Jeff Mueller: Oh, I'm sorry, top left?

Commissioner Abell: Yeah, see it right there, Millersburg drainage, top left. There you go, right there. Is that it?

Jeff Mueller: That's some of the pictures, but there should also be a report on there. Let's see if I can find it. Well, it's this ditch. It's this ditch right here. I had a report on this.

Commissioner Abell: Now, where is this? This is Millersburg and what?

Jeff Mueller: Millersburg and 164.

Commissioner Abell: I meant that picture. That wasn't Millersburg and 164.

Jeff Mueller: That is—

Commissioner Abell: What about jpg.2013?

Joe Harrison, Jr.: Off to your right, 2013.

Commissioner Abell: 2013, down two more pictures. There you go, right there. What is that intersection?

Jeff Mueller: That would be Millersburg and County Line Road.

President Melcher: Isn't that the one that the county cleaned out?

Jeff Mueller: Yes, it is. That is looking east at the Warrick County line on the other side of it.

President Melcher: That happened this year.

Jeff Mueller: Yes.

Commissioner Abell: This is looking east?

Jeff Mueller: Yes.

Commissioner Abell: So, we are already under the 164 overpass?

Jeff Mueller: Yes, at that point.

Commissioner Abell: You're east of it?

Jeff Mueller: Yes.

Commissioner Abell: Okay.

Jeff Mueller: It's that little stretch, sliver of land that's still in Vanderburgh County.

Commissioner Abell: Is that like Gerhardt's house down there to the left?

Jeff Mueller: It's Ron Titzer's, isn't it?

Wayne Fehd: Ray.

Jeff Mueller: Ray, it's one of the Titzer's, yes.

President Melcher: Well, I remember seeing this picture earlier, and we said we cleaned it, and we did and you showed us this.

Jeff Mueller: Yes. We cleaned it–

Commissioner Abell: The County Highway Garage cleaned it?

Jeff Mueller: – all along Millersburg Road. Then, from that point–

Commissioner Abell: Wait a minute.

Jeff Mueller: Okay, I'm sorry.

Commissioner Abell: The County Highway Garage cleaned it?

Jeff Mueller: Yes.

President Melcher: Yes.

Commissioner Abell: And they cleaned Millersburg Road you said all along Millersburg Road, even in Warrick County?

Jeff Mueller: No, no, I'm sorry, Ma'am, just only in Vanderburgh County.

Commissioner Abell: Just in Vanderburgh County?

President Melcher: Just that little sliver–

Commissioner Abell: I was getting a little worried.

President Melcher: – that we own.

Jeff Mueller: Okay, so, to back up, at one time, way before 164 was built, I guess, this ditch used to run along Millersburg Road. I don't know what the history is, but at some point, when the highway was built, the ditch ran along Millersburg, and now it turns up and goes to the north and goes through that fill property owned by JBI.

Commissioner Abell: Oh, okay.

Jeff Mueller: Okay? So, that's where we're at. I thought I had a presentation on there that showed that map. So, the, what we did was we worked the road along Millersburg, within the right-of-way of the highway. That's the portion of the ditch that was cleaned out this summer.

Commissioner Abell: In Vanderburgh County?

Jeff Mueller: In Vanderburgh County, yes. So, these just show some of the pictures of where it was cleaned out. This is just a picture of Warrick County and where it goes underneath the pipe, the interstate, and where it comes out. That's looking on down Millersburg Road from that point on. Okay?

President Melcher: Okay.

Jeff Mueller: I'm going to look in one more spot to see if I can find this. I thought this was all on here.

Commissioner Abell: Miscellaneous looks like a good file.

Jeff Mueller: If I can find it. No, that's Cherry Hill. I thought I had some other pictures of this from when, I don't know where they are.

Commissioner Abell: Well, I think we know where it is.

President Melcher: I think you did.

Jeff Mueller: I apologize, I thought they were on the stick.

President Melcher: That's fine.

Kenny Fehd: I've got a sketch of it.

President Melcher: Let's get Millersburg back up.

Jeff Mueller: Okay.

Kenny Fehd: Let me show you a sketch.

Jeff Mueller: That one, Mr. Melcher? Is that the one you wanted up?

President Melcher: Well, I'm assuming this is what we're talking about.

Jeff Mueller: Yes.

President Melcher: Okay.

Jeff Mueller: This was after it was cleaned out.

President Melcher: This is after it was cleaned out?

Jeff Mueller: After it was cleaned out.

Wayne Fehd: (Inaudible) into the borrow pit?

Jeff Mueller: That could be right where it goes into the borrow pit at that point. That's where it turns, yes.

Wayne Fehd: That was what was all growed up, where the county couldn't go out and clean it.

Jeff Mueller: That's where the right-of-way ends, where it turns and goes up into the borrow pit, yes.

Wayne Fehd: That's what we're concerned about.

Jeff Mueller: Okay, and that gives a pretty good shot right there.

Commissioner Kiefer: Hey, Jeff?

Jeff Mueller: Yes?

Commissioner Kiefer: This is not a regulated ditch is it?

Jeff Mueller: No, it is not.

Kenny Fehd: That was the old ditch, that went over to Bluegrass Creek. The problem is, the water is coming back, what he speaks of on private property, which is Koester had it, now Metzger's got it. It's private property. It's a salvage yard, you know.

President Melcher: No, we know what it is.

Kenny Fehd: (Inaudible). Eventually that thing is going to fill up.

President Melcher: You're right.

Kenny Fehd: That pond is going to fill up. What's going to happen to this ditch then? I would suggest, (Inaudible) can't do anything? (Inaudible) from now, that we could change and put that back where it belongs, (Inaudible) as they were. I'm 87 years old, and I know all about this.

President Melcher: Okay, I think we understand. Do you understand?

Commissioner Abell: Uh-huh, I understand where it is, why was the ditch turned? Do you know? Do you know when the ditch was turned?

Jeff Mueller: I think when the interstate was built.

Joe Harrison, Jr.: Yeah, it was the State.

Jeff Mueller: When they dug the borrow pit.

President Melcher: Okay, but, I think, what the gentleman is asking, and, I guess, correct me if I'm wrong, he's saying it's going into that private property, which we can't get in. He's saying they want us to be able, maybe go ahead and put it back where it was in Vanderburgh County. I don't know the ramifications of all of that. So, I believe that's what they're asking.

Jeff Mueller: Yes, and, I think—

President Melcher: Because, what happens, and he's correct, the idea is, and that's what they're using that pit for, they're filling it up.

Jeff Mueller: Yes.

President Melcher: It could be this year, or five years from now, it's going to be full and now the water won't have nowhere to go.

Jeff Mueller: Well, they're maintaining the ditch though as they're filling it up.

President Melcher: Uh-huh, but I'm just saying, once it fills up, then what happens?

Jeff Mueller: What I understand right now, Mr. Melcher, is they're still maintaining the ditch as they're filling it up. They're creating the ditch while they're filling it. In other words they're filling it up, but they're leaving the ditch on the side.

President Melcher: So, is the water—

Commissioner Kiefer: That's it right there. I didn't see it.

President Melcher: Okay.

Jeff Mueller: There, John's got us.

President Melcher: Alright. So, the water is not going into that pond? It's just going along that ditch?

Jeff Mueller: It goes up through this ditch, and then it's going on up, and then it's got an outlet right up here, through here.

President Melcher: Okay.

Wayne Fehd: Into Bluegrass Creek.

Jeff Mueller: Into Bluegrass.

President Melcher: Okay, and we've had some people in here—

Kenny Fehd: I want to add one thing there too, he's talking about the outlet on that pond. It goes into Bluegrass, over your twin lakes that they've got up on the other side of Daylight, it's been turned over to the State for State property, they're overflow out of them ponds are coming down that ditch, that Bluegrass Creek. Now, if we happen to have a high water or anything like that, where's that water going?

President Melcher: Okay. Did you want to say something, Joe?

Joe Harrison, Jr.: Has there ever been any communication with the State?

Jeff Mueller: On?

Joe Harrison, Jr.: Well, because of the change in the flow because of the interstate? I mean, I know it's way late in the game on that. I mean, that's kind of what started the whole thing.

Jeff Mueller: Yes, and I don't have an answer for that. All I know is when—

Joe Harrison, Jr.: Am I right or wrong? I mean, isn't that what kind of started your whole—

Kenny Fehd: Sir?

Joe Harrison, Jr.: Well, you didn't really have these problems out there until the interstate was built, is that accurate?

Kenny Fehd: Well, that's, we had problems with getting that ditch cleaned.

Joe Harrison, Jr.: I understand, but do you know what I'm saying?

Kenny Fehd: Yeah, it's on private property, and we went on our own, a half a dozen of us did, and had it dredged out.

Joe Harrison, Jr.: Okay.

Kenny Fehd: That's on private property. They had the Corps of Engineers, evidently give Metzger—

Joe Harrison, Jr.: I understand all of that. They've approved that.

Kenny Fehd: Then they cleaned it out.

Joe Harrison, Jr.: Right.

Wayne Fehd: We want to make sure it don't happen again, so that the county has a way to get in there and maintain that to Bluegrass Creek, so that flow can get there, or else put it back down on the north side of Millersburg Road, like it used to be.

Joe Harrison, Jr.: Right, I understand the way it used to be, but the county can only go on the property that's right-of-way, you know, I mean, we can't go on to private property. That's why it's been cleaned out, part of the ditch has been cleaned out.

Kenny Fehd: Well, the main thing is that I really want to have, number one is to get it recorded, get this ditch recorded.

Joe Harrison, Jr.: Do you mean you want it to be a regulated ditch?

Kenny Fehd: It's a county ditch, and it should be on record and it isn't—

Joe Harrison, Jr.: Okay.

Kenny Fehd: — according to the Recorder.

Joe Harrison, Jr.: Right, I think I know what you're saying there, but I think you're asking that it be a regulated ditch. Is that what you're asking, where it's controlled by the county? Jeff can....but that takes participation by landowners.

Jeff Mueller: Right, I mean, the issue the way I see it is this, for that ditch to become us, someone has to give us a right-of-way to do that, we have to agree to accept it, and we have to figure out a way to fund it. I don't think we can be running county road crews up that far off of right-of-way. So, the only way that I personally see it would be it would have to become a regulated ditch, and the people that flow into that would have to petition the county—

Joe Harrison, Jr.: Right, that's how that works.

Jeff Mueller: — to make a regulated ditch.

Joe Harrison, Jr.: But—

Jeff Mueller: So, there's a whole bunch of steps there.

Joe Harrison, Jr.: – all of those people that are affected would have to be involved and want to pay.

Jeff Mueller: Yes.

Kenny Fehd: It would be an easement along there, so that it can be cleaned by the county. If we leave it like it is–

Joe Harrison, Jr.: But, you would have to have participation by all of those affected people, and I don't know if you've ever talked to them about it. Have you, like that business and the rest of them?

Jeff Mueller: Also, the State would have to agree to it.

Joe Harrison, Jr.: Oh, yes.

Jeff Mueller: The State would be taxed on that too, on the regulated drain.

Commissioner Kiefer: I don't think there's anything we can do right now.

Joe Harrison, Jr.: No, I mean, unless there's a big plan where the State would, the State is going to have to be a player.

Wayne Fehd: They wouldn't have to be involved just to go ahead and put it back down Millersburg Road like it was to the west.

Joe Harrison, Jr.: Well, I think they're the ones that caused it to be the way it is now, aren't they?

Jeff Mueller: I don't know if they were, or the county was, or if there was some agreement. I don't know, because that was 30 years ago.

Kenny Fehd: Why was it taken at all? Why was it taken out of the Recorder, as being a recorded ditch, when it always was?

Joe Harrison, Jr.: Well, I don't know, that's something you'll have to look at.

Kenny Fehd: Until that highway was built.

Joe Harrison, Jr.: Right, well, again, the State did that.

Kenny Fehd: Yeah, when that highway was built was when this all took place.

Joe Harrison, Jr.: That's what I was trying to ask earlier.

Jeff Mueller: Well, we talked about this before. I brought up, though, the only other alternative would be to take it down Millersburg Road, and I think, at that time figured it was going to be about 4,000 yards to dig a ditch, plus you would have to make sure we'd have the easements, plus we would have to have some pipes into a couple of different properties in order to do that.

President Melcher: I guess, I don't understand about the recording thing.

Joe Harrison, Jr.: Well, that's the wrong term. It's regulated, and it's not a regulated ditch.

President Melcher: Well, he's went to the Recorder's Office—

Joe Harrison, Jr.: I mean, if it was a regulated ditch, your office would have it on file.

Jeff Mueller: No, we don't have any files. It's not regulated.

President Melcher: Okay.

Jeff Mueller: It's not a regulated ditch.

President Melcher: I guess, the question would be, and I'm just trying to find out, what do you mean by recording it?

Kenny Fehd: Well, it should go on record as being a county ditch, and maintained by the county.

Joe Harrison, Jr.: I think he means regulated is what he means.

President Melcher: Well, I think you're right.

Jeff Mueller: I might be able to interject something here. I think at one time there was some talk about an easement being recorded for the ditch, but it never happened. There is some scratch paper where somebody kind of like, let's do something. It was Andy Easley back when he was an engineer, and he just wrote out some things, but there's been no, there is no physical easement that's ever been given and recorded that I know of. John's looked through his files, and he can't find anything. The only thing I've found is what John's given me, which was just some notes about, well, if we get an easement we might put a pipe in or something. It's just some notes, but there's no easement recorded for this ditch going to the north.

President Melcher: I really don't know what we could do now.

Commissioner Kiefer: I mean, I think , unless it becomes regulated, and, like you said, there's a bunch of steps that have to be taken for that to happen.

Joe Harrison, Jr.: The only thing I might recommend, and I don't know if it would do any good, but maybe at some point you might have some discussions with INDOT just to see if they have any thoughts. I mean, I don't know, I mean, I don't think this would have happened but for—

President Melcher: Wouldn't that be us though?

Joe Harrison, Jr.: Well, it's us, the county.

President Melcher: Yeah, we would have to have some discussions with INDOT.

Jeff Mueller: We could.

President Melcher: I think maybe that's the way we ought to go.

Joe Harrison, Jr.: Maybe you can give us a little, this is a nice picture, some of these photos. Maybe we can get a Power Point.

Jeff Mueller: I apologize, I thought I had one, and apparently it's on another stick.

President Melcher: Okay, but they have a drawing. Did you see their drawing?

Jeff Mueller: Yes.

President Melcher: Would you mind leaving that drawing with him?

Kenny Fehd: Yeah, I did.

Jeff Mueller: I've got a copy.

President Melcher: You've got a copy of it already?

Joe Harrison, Jr.: Yes.

Kenny Fehd: He has a copy of that drawing.

President Melcher: Alright, then that's fine.

Joe Harrison, Jr.: Maybe we can do some checking and see if there's any other options out there.

President Melcher: That's the only thing I think we could do at this point is just try to check with INDOT ourselves to find out what their logic was and what happened, and see what they can do. Maybe if we have the engineer and Jeff work together on this. Then whenever we find out something, if you give us your....do you have their names?

Jeff Mueller: Yes, I've got their contact information.

President Melcher: Then maybe he could get back with you, and we could bring it to another meeting here, but I don't think tonight there's nothing we can do. But, I think, you know, you might have a legitimate thing here if there was a ditch there and the State took it out. So, are you having flooding problems where you're at now?

Kenny Fehd: Flooding problems?

President Melcher: Uh-huh.

Kenny Fehd: No, unless we get a four or five inch rain.

President Melcher: Okay.

Kenny Fehd: Then it will flood.

President Melcher: Okay.

Wayne Fehd: The problem was the trees got so big in that ditch and wouldn't let that flow go on back to the north after it got past what the county cleaned. That's why we're asking for that to get cleared up here. There was trees probably eight to ten

inches in diameter that had done grewed in the bottom of that ditch for 25 years, since the highway was built there. This blocked the flow of the water, and then when it rained hard it backed up that ditch and then goes over his property up on the east.

President Melcher: You're saying that the State put that ditch in?

Wayne Fehd: I'm saying that it's not right.

Joe Harrison, Jr.: Well, it changed course.

Wayne Fehd: And it's the county's problem because it's, Vanderburgh County's problem because the water comes off the road right-of-way and it's being discharged on to private property, and it shouldn't be.

Joe Harrison, Jr.: How did the—

Jeff Mueller: But, wait a minute, before we say that, we have a lot of road ditches that discharge on to private property. This isn't the only one that occurs in.

Joe Harrison, Jr.: How did the cleaning, I mean, were you pleased with the cleaning of the ditch?

Wayne Fehd: Three or four neighbors got together and brought an excavator in and cleaned it out.

Joe Harrison, Jr.: So, the county didn't clean any of the ditch?

Jeff Mueller: No, no, the county cleaned the ditch along Millersburg Road.

Joe Harrison, Jr.: That's what I'm asking.

Jeff Mueller: Yes.

Joe Harrison, Jr.: How did that turn out?

Kenny Fehd: You didn't clean the ditch to the north.

Wayne Fehd: That was alright.

Joe Harrison, Jr.: So, that turned out alright?

Jeff Mueller: No, but along Millersburg Road.

Joe Harrison, Jr.: That turned out fine? They just did it this year.

Kenny Fehd: We done that on our own.

Wayne Fehd: The part that the county didn't clean was to the north.

Joe Harrison, Jr.: I understand, because it's on private property, right.

Wayne Fehd: By the way, for the record, I'm Wayne Fehd. I'm with Kenny. He's my uncle. I farm his land.

President Melcher: Okay.

Jeff Mueller: I mean, I'm going to pat the County Garage on the back. They did, as far as the work they did along Millersburg Road, they did a really, really good job.

President Melcher: Yeah, you said that when you showed us those pictures when they got done, because we've had this discussion once before.

Jeff Mueller: Yes.

President Melcher: Do you want to add something, John?

John Stoll: Just one thing, I would be glad to work with Jeff in talking to INDOT, but typically the borrow pit locations weren't specified by the State. So, it would have been the contractor to go out and find the borrow pit location, which says that they, the contractor who built that segment would have been involved in acquiring this land to get, dig the pond in the first place. So, INDOT may not have any record, I mean, they would have the records regarding the interstate project, but they didn't stipulate probably that that was the location where the borrow had to come from to build up the fill for the road. So, they may not have a whole lot of detailed records either.

President Melcher: But, who moved the ditch? Would that have been the State or the contractor?

John Stoll: Like Jeff said, all we've got is some very vague paperwork that looks like it was re-routed at the same time that the interstate was being built, but who authorized it, we don't know.

President Melcher: Well, maybe we can get to the bottom of it if we could work with the State.

John Stoll: Just like Jeff was saying about road ditches, everything out there, Bluegrass Creek is private property, just like Pigeon Creek is private property.

President Melcher: I know, we get complaints about Bluegrass.

John Stoll: All discharging of those creeks, again, it's all ended up on private property.

Kenny Fehd: Well, Vanderburgh County always took care of that ditch from the county line clear to Bluegrass Creek. That's back in the late 30's. Now, I'm 87, and I can remember, that's when you cleaned ditches with a scythe, and cleaned them out with a shovel. Now, that, as I know, it was on record that that was a county ditch, but then when the highway was built this all disappeared, and here they come out with the neck and then shoot it straight north, like I showed you on the plan. Now, that was all done, we can't understand why it was done that way.

President Melcher: We don't either, and we understand your plight. I think the best thing we could do this evening, at this time, is we're going to go ahead and do some due diligence and get with the State. Then, when we get some information, Jeff will relay it to you and us, and if it calls for another meeting, we'll have you come back to another meeting.

Kenny Fehd: You are going to record it?

President Melcher: No, don't know about recording, we've got to find out...we can't record, but what we're going to do we're going to work with—

Kenny Fehd: Okay, you're going to work with me?

President Melcher: – we're going to try, we're going to work with the State, hopefully, to find out what happened and see if there is some records in the State.

Kenny Fehd: Okay.

President Melcher: That's the best we can do tonight.

Kenny Fehd: Okay, well I would appreciate it if you would send me a letter.

President Melcher: Well, we're going to do that.

Kenny Fehd: You're going to communicate with me?

President Melcher: Jeff's going to be your in between.

Kenny Fehd: Okay, I'll go with that.

President Melcher: Alright, thank you very much.

Kenny Fehd: Okay.

Wayne Fehd: Thank you. We can at least get started.

President Melcher: Well, we don't know how far we'll get, but we'll start.

Jeff Mueller: You'll see me, but the only thing we can do is talk to the State, guys. If they don't have any records.

Wayne Fehd: Then we'll be back.

Jeff Mueller: Then that's the best we can do.

Kenny Fehd: You'll be my buddy from now on.

Joe Harrison, Jr.: Okay, he's a good buddy.

President Melcher: Okay.

Commissioner Kiefer: I'll make a motion to adjourn.

Commissioner Abell: Second.

President Melcher: Okay, so we've got a first and a second, so, if there isn't any other...okay, all in favor to—

Commissioner Kiefer: Aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

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

Those in Attendance:

Stephen Melcher	Joe Kiefer	Marsha Abell
Jeff Mueller	Joe Harrison, Jr.	Madelyn Grayson
John Stoll	Bill Koch	Al Bragin
Roger Lehman	Kenny Fehd	Wayne Fehd
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
OCTOBER 8, 2013**

The Vanderburgh County Drainage Board met in session this 8th day of October, 2013 at 5:50 p.m. in room 301 of the Civic Center Complex with Vice President Joe Kiefer presiding.

Call to Order

Commissioner Kiefer: We'll call to order the Drainage Board for Vanderburgh County. I don't have an agenda. Vanderburgh County Drainage Board agenda, or for October 8, 2013.

Pledge of Allegiance

Commissioner Kiefer: I would like to ask Mr. Harrison to lead us in the Pledge.

(The Pledge of Allegiance was given.)

Commissioner Kiefer: Thank you.

Approval of the September 24, 2013 Drainage Board Meeting Minutes

Commissioner Kiefer: Is there approval for the previous minutes?

Commissioner Abell: So moved.

Commissioner Kiefer: All in favor say aye.

Commissioner Abell: Aye.

Commissioner Kiefer: Aye. Opposed none. Okay.

(Motion approved 2-0)

**Request by Big Creek Drainage Association:
Additional Work under I-64/Submittal of INDOT Permit**

Commissioner Kiefer: Okay, I'll let you take over here.

Jeff Mueller: Okay. The first thing is a request by Big Creek to perform additional work under I-64 and the submittal of an INDOT permit. There's some trees, we're looking at Pond Flat on I-64, this is Gibson County and Posey would be right over here. This is where we're talking about right here. It kind of gives you a feel for these trees right here. Eldon's here and he could tell you a little bit more about it. I know they've had some problems up there. They would really like to get these trees out of here this fall. We met with INDOT, I've got the permit application here, and Mr. Maasberg here has given me a quote to where the Pond Flat Drainage Association would be doing the work for \$1,000. They would use Allen Relleke as a sub-contractor. They are essentially going in, cutting trees down, putting something on them to tow them out of there, and putting a little paint on the base of the trees to keep them from coming up. That's kind of what we're looking at, and I know Eldon can tell you that they even had some flooding because of this problem. They've had

some animals get killed, didn't they at one of your farms, years ago? Anyway we're requesting a \$1,000 expenditure, the Pond Flat we've got \$15,000 plus in there right now.

Commissioner Kiefer: Okay, I can see that it's needed and necessary, and it's with your recommendation. I'll ask for a motion to approve.

Commissioner Abell: I'll move to approve.

Commissioner Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

Jeff Mueller: I've got two permits, Mr. Kiefer, I need you to sign.

Commissioner Kiefer: Okay, thank you.

Joe Harrison, Jr.: Is there a motion to go ahead and approve those permits?

Commissioner Abell: I'll move to approve.

Commissioner Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

Wolf Creek Condos: Drainage Plan Modification
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Jeff Mueller: The next thing on the agenda is a modification to the drainage plan for Wolf Creek Condos/Heartland Creek, Section Three. Essentially what's going on here a little bit different was, at one time there was some condos planned, and then in the last drainage plan there was this pipeline planned, which was not part of the drainage plan, and now they're back to kind of an original plan of building the condos in this method. The only problem is, is that there's drainage coming off of four lots. Mr. Stoll brought this up to me, and I thought it was a good suggestion, we don't want to have these people complaining down here about water coming off these lots in the future, or people down here damming water off. So, what we requested was a covenant to be made by the Condo Association that this drainage can come

across these properties, it will usually be funneled down through the driveways, but we won't have people complaining here later saying I've got water coming off these lots, or, you know, I want to dam up the water coming off these lots. So, they have put together a covenant. They brought it in today to record. It won't actually be recorded until tonight, but all I'm asking for is that a modification to the drainage plan for Heartland Creek Three for this private covenant. Mr. Harrison has seen this covenant.

Joe Harrison, Jr.: Yes, I've reviewed it, but there's one thing maybe before they record it, it hasn't been recorded yet, right?

Jeff Mueller: Okay.

Joe Harrison, Jr.: Look on page one, see what the date says, September 7th?

Jeff Mueller: Okay.

Joe Harrison, Jr.: Look on the second page.

Jeff Mueller: October 7th.

Joe Harrison, Jr.: October 7th.

Jeff Mueller: Okay.

Joe Harrison, Jr.: So, I think they meant to sign it, it should probably say October 7th, because I assume they signed it October 7th.

Jeff Mueller: Well, I assume they signed it today, because we didn't get it approved until last week.

Joe Harrison, Jr.: Okay.

Jeff Mueller: Okay.

Joe Harrison, Jr.: So, if they can just make sure that that—

Jeff Mueller: It's probably already in the recording process, so, I guess, they'll have to come down and make a change to it.

Joe Harrison, Jr.: Well, just make sure it's consistent.

Jeff Mueller: Okay.

Joe Harrison, Jr.: You can get with the Recorder's Office.

Commissioner Abell: I'll move to approve with that change.

Commissioner Kiefer: Second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 2-0)

IDNR Construction in Floodway Permits: Pond Flat Ditch

Jeff Mueller: Quick update, we had these IDNR permits come through, and we had some questions about them. One question in particular was on Pond Flat, there was a drawing that was given to us that was showing that this is what's going to happen. I brought the engineering firm out, we went out and looked at it. We actually have some blockage there. I'm working with INDOT, their consultant, on saying, you know, instead of you guys just coming in and putting some rip rap along the edge here, what about coming in here and digging this material out, clearing the blockage out from underneath the bridge and let's fix it right, get it fixed right. So, this is kind of like, the legal drain starts right at 41, so, it's kind of like, is it or is it not in our, we don't have a pinpoint of where Pond Flat actually starts, but we're asking that we have some input into this. This is where the issue is at. So, I'm just bringing you up to date that we're working on this.

Commissioner Kiefer: So, we don't need to vote on anything?

Commissioner Abell: No.

Jeff Mueller: No.

Commissioner Kiefer: You're just doing an inquiry.

Jeff Mueller: No, the only thing I would like to do is, I don't need to discuss it tonight, but, you know, we've had people want to work on legal drains. If you remember we've had requests to pave over roads and all this other kind of, a whole bunch of other things with legal drains. I have put together an application to do work on a legal drain. I would like to just show it to you, you can take it home, but I would like to work with Mr. Harrison, if you all don't have a problem I would like to get an application put together, however we need to do it and then put it on our website and then people will have a method of coming to us to either hook to a legal drain, put a street over one, to relax the encroachment, all of those kind of things.

Commissioner Kiefer: Great idea. I'm surprised we didn't have that before.

Jeff Mueller: Anyway this is what it is.

Commissioner Abell: Good idea.

Jeff Mueller: Okay.

Commissioner Kiefer: Thank you.

Millersburg Road Drainage Issue

Jeff Mueller: Okay, Millersburg Road drainage issue. My suggestion is that, Mr. Stoll has contacted INDOT, and we're no farther along than we had before. I don't think we have any good news. Do you want to put it on the agenda for the next meeting and ask the Fehd's to come back in and we'll go through it one more time?

Commissioner Kiefer: I think I would like us to do that, because, I know Commissioner Melcher had a particular interest in this. So, we don't need to make a motion to...yeah, if you can just--

Jeff Mueller: I'll put it on the agenda next time, and then we'll go through the presentation and show where we're at.

Commissioner Kiefer: Thank you very much.

Burkett-Moore Drainage Obstruction Petition Update

Jeff Mueller: Burkett-Moore drainage petition. That was supposed, the work was supposed to have been done October 1st, they were a little bit behind, they had the dirt work done, but they didn't have the seeding and the rip rap placed. The plan was to do all that this past Saturday, as you are aware of, we had three inches of rain. I went out there today, which explains why I'm sorry I wasn't dressed today, I did go out in the field today, I wasn't down at the Fall Festival. Anyway, I went out there today, the work is not done, and I will call him to find out when they are going to complete it, but I'll also be honest with you, this isn't the time to be out there seeding either, but they are behind on their deadline. There has been some work done, but there still needs to be finish work done, but we need some drying weather.

Plocik-Baker Drainage Obstruction Petition Update

Jeff Mueller: On Plocik-Baker, McCullough has been hired by Mr. Baker, and McCullough also does work for us. He was supposed to start yesterday, again, because of the rain they're not starting. I talked to him today, they were hoping to maybe start Friday, if not Friday, next week. Again, because it's so soggy, the last thing you want to do is just go in and tear up a bunch of lawns. They're under an October 15th deadline, that might be close in view of what happened with the weather. That's the update on those two.

Commissioner Kiefer: Okay.

Ditch Maintenance Claims

Jeff Mueller: I have no claims for tonight.

Commissioner Kiefer: No claims?

Other Business

Commissioner Kiefer: Any other business?

Public Comment

Commissioner Kiefer: Public comment? A motion to adjourn.

Commissioner Abell: So moved.

Commissioner Kiefer: We are adjourned.

(The meeting was adjourned at 5:59 p.m.)

Those in Attendance:

Joe Kiefer

Marsha Abell

Jeff Mueller

Joe Harrison, Jr.

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
OCTOBER 22, 2013**

The Vanderburgh County Drainage Board met in session this 22nd day of October, 2013 at 5:40 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: The Drainage Board will start right now.

Pledge of Allegiance

President Melcher: If we could all stand for the Pledge of Allegiance. We need everybody to stand please.

(The Pledge of Allegiance was given.)

Approval of the October 8, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: I make a motion that we approve the previous minutes.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Millersburg Road Drainage Issue

President Melcher: Okay, Jeff, you want....you've got Millersburg Road on here.

Jeff Mueller: Yes, I'm getting ready to pull it up right now here. Okay, Millersburg Road, as you're aware we've had this discussion before on this issue. The area in question is on Millersburg Road near I-164. Just to kind of get everybody acquainted, there's Millersburg Road, County Line Road here, so we've got Warrick over here, Vanderburgh on this side. This was an old borrow pit area here that was developed for I-164. At one time there was a ditch that ran along Millersburg Road, and then went and tied into the creek over here. That ditch is now turning and runs up through the borrow pit and eventually goes out through, I believe that's Blue Grass up there. As you're aware we've had some complaints on this ditch. The County Highway went in and cleaned the ditch. This is the ditch, this is the County Line Road right here. This is looking east towards Warrick County. Then it goes underneath I-164. I want to point out, that pipe right there, that's kind of a controlling factor in that we can't go any lower than that pipe. It shows that pipe again on the east side. That's looking west, where the ditch goes and eventually turns and goes to the north. As we were aware, not last meeting, but the meeting before, Mr. Fehd, Kenny Fehd and Wayne

Fehd came to talk to you about this ditch. You asked myself and Mr. Stoll to see if we could find out anything more about this ditch. John, who's here tonight, I will kind of just summarize an e-mail that he gave me, but contacted Jeff Stahl with INDOT, regarding the realignment of the ditch, and we were fortunate enough to find that Jeff had been with INDOT when I-164 was built and this actually was going on during that time. According to Mr. Stahl, the old roadside ditch didn't drain properly, due to the trees that had grown up in a portion of the ditch that ran to the northwest. I'll show you some maps here in a minute. I also gave you two maps that we'll talk about. It didn't flow well. They had trouble working with the property owner to clean the ditch out, so, therefore, since Koester Contracting, at the time, owned the area where the borrow pit was, it was agreed to allow that ditch to go up through the borrow pit, as it does right now. Mr. Stahl thought that the County Engineer at the time, Andy Easley, was working on, or had obtained an easement for a ditch, which as you're aware that did not occur. Not to say he didn't work on it, but we don't have any easement for that ditch. The section of ditch between, what essentially happened then, so this section of ditch that wasn't being maintained, and I'll show you this on the map in a minute, is now the piece that's running up into the borrow pit. So, in either case we've got a roadside ditch that eventually runs off property before it gets to the creek. This is a TOPO map taken from the Vanderburgh County files from 1968. The area right here, I-164 would be coming through here, the borrow pit here. The ditch ran along, and then it used to go up through here. This is the area of the ditch, according to Mr. Stahl, that was not, that they couldn't keep cleaned out. So, what happened was, in 1990, as the 1990 photo shows, here's that same piece of ditch, so now the ditch turns and it runs into the borrow pit. So, that's the situation we have out there right now. Like I said before, the county road ditch ran down through here, ran this way, now it runs up through here. If we were wanting to turn around and try to re-establish that ditch, you're talking about 650 feet of linear ditch. You're probably talking about 4,000 cubic yards of material, plus putting in driveway pipes, and that doesn't include cost of rip rap either. So, we'd be talking a fairly significant cost if the goal was to turn around and take the ditch on down through here, plus, I don't know if we have the right-of-way to do that or not.

Commissioner Abell: So, the State actually re-routed this ditch? We didn't?

Jeff Mueller: That's our understanding. John, like I said, he talked to Jeff.

President Melcher: You said the reason, I guess you said he said—

Jeff Mueller: Yeah.

President Melcher: — that the reason why they had to do it was because trees were growing up in that one and the owner wouldn't take care of it.

Jeff Mueller: That's correct.

President Melcher: Alright.

Commissioner Abell: The State did this when they put in I-164?

John Stoll: Correct.

President Melcher: So, what we have now is the same problem we had back then. That the ditch is going through there and there's trees up in that ditch now.

Jeff Mueller: There were trees growing up in that ditch, although my understanding is that they did allow some people to come in, some of the guys to come in and clean that ditch out.

President Melcher: But, I thought there was still trees in that ditch. Okay, let's move on.

Jeff Mueller: Okay. I think the bigger concern, Mr. Melcher, is the fact of, you know, what's going to happen as this moves forward? Because, as you're aware, this is a 1990 TOPO, and this has been gradually being filled in with material, but they are leaving a ditch open through here. I mean, as they're putting fill material in, as they're constructing their fill, they're still leaving access for water to get up through this, and there is an outlet up here.

President Melcher: So, it's not going into the pit?

Jeff Mueller: It goes into this pit, but then it can go back out.

President Melcher: But, he's filling up the pit.

Jeff Mueller: But, he's leaving, he's establishing a drain while he's doing it, on the east side. In other words, he's not filling it completely. He's kind of like, they're filling it up, but they're, you know, they're leaving an area through here so that water can still run up through there. Because, if they didn't do that, they would be obstructing a drain, in my opinion.

Jeff Mueller: Okay.

Joe Harrison, Jr.: But, again, this is all on private property, and the State determined that this was the way to go back in the 90's.

Jeff Mueller: Yeah, or prior to 1990, because I think the interstate opened in, the first phase of it in '88 or '89.

Joe Harrison, Jr.: Okay, again, this was all approved by the State.

John Stoll: Apparently, like Jeff said, they had been working with the County Engineer at that time, we don't have any records that would provide—

Joe Harrison, Jr.: Well, it was under their jurisdiction.

John Stoll: Right.

Joe Harrison, Jr.: That's what I'm saying. I mean, it wasn't the county's jurisdiction. It was the State.

John Stoll: I don't know all of the details on what didn't drain, but that area where it kind of runs northwest to a 45 degree angle, they couldn't make it drain from there—

Joe Harrison, Jr.: Right.

John Stoll: — so, this was the option they chose.

Joe Harrison, Jr.: Again, it was the State.

Commissioner Abell: So, what are you wanting us to do? There's nothing for us to do. It's not ours.

Jeff Mueller: Well, I mean, the guess the way I look at it is it's a drain that's, you know, it's a county road drain that's runs onto private property, much like many other drains do. Unless someone intentionally obstructs it, ie: if they go in and start filling it in, then a petition can be filed, but as long as water is running through there, I don't see this as any different than any other ditch that we have through there. Now, one of the things that the county did this year, and, again, I'll give credit to the county road crew, they did an excellent job of cleaning this ditch out, but the other problem is they can only clean out to the pipe elevation. When you get on the other side here, this is table top flat. It's a very flat area in Warrick County through here, with a very high water table. Outside of coming back and lowering the pipe where you could really, you know, cut down this ditch a couple feet to get it to drain better, I don't know what you're going to do to help it. I mean, you can't do that without lowering the pipe underneath the interstate. I mean, hindsight is 20-20, the best thing would have been to have put the pipe in a little bit lower, but, you know, I wasn't privy to those calculations or anything at the time.

Commissioner Kiefer: But, still, that pipe is on State property.

Jeff Mueller: Yes.

Commissioner Kiefer: I mean, it would really be the jurisdiction of the State to do that work.

Jeff Mueller: Yes, yes.

Commissioner Kiefer: Yeah. I mean, it's just like a—

Jeff Mueller: I mean, the best thing I think Vanderburgh County can do is keep that road ditch clear by, you know, making sure the County Highway crews get out there every year. When they did that this year it had been several years since it had been done, and it did help it quite a bit. I think that's one thing that can be done. You know, the other thing is to hope that the landowner, just like we hope a lot of other landowners throughout the county, is that they maintain the ditches on their private property as they're supposed to. But, I don't have any big solution beyond that, unless we were wanting to try to acquire the right-of-way for the future ditch, and then figure out a way to fund it, which would be through a legal drain system. It would actually have to be a legal drain set up with both us and Warrick County, since some of the drainage goes through, is coming from Warrick County too.

Commissioner Kiefer: I suppose you could send a letter to the State, you know, whoever's jurisdiction that is, and tell them that it's an issue, but I doubt they would do anything about it. But, at least you could put them on notice, I guess.

President Melcher: I don't know.

Commissioner Kiefer: I mean, I don't know.

Joe Harrison, Jr.: I don't think there's anything that can be done, other than what he's recommending that we continue to clean out the right-of-way ditch.

Commissioner Kiefer: In that case, I mean, we don't need to make any motions here.

Jeff Mueller: I mean, it's not like there's standing water out there right now.

Commissioner Kiefer: Yeah, I accept the—

Jeff Mueller: It's dry on a dry day.

Commissioner Kiefer: – Surveyor's recommendations.

President Melcher: Well, it doesn't look like there's nothing we can do.

Commissioner Kiefer: Except as he stated, just annually get out there and make sure it's cleaned up in our right-of-way.

President Melcher: So, in the future then, if something happens to that drain that is on that private property, we could do something about that.

Jeff Mueller: If it was caused intentionally, Mr. Melcher, yes, yes.

President Melcher: Well, they let trees grow up in it again, and stuff like that, that's intentional, if they're going to let it happen.

Jeff Mueller: Yeah, I guess. I mean, I don't disagree. I understand what you're saying. When you talk "intentionally" in the Indiana Code, I'm kind of not sure what that word means.

President Melcher: I'm just saying, if it's supposed to carry water, then nothing should be in there.

Jeff Mueller: I think, the best thing to do is ask people to be good stewards of their ground, is the best thing that we can do.

President Melcher: Okay. Do either one of you gentlemen want to say something?

Kenny Fehd: I can't understand too well, or hear too well. I believe that what he is trying to say is that we have a drainage there on private property that can't be approached normally with maintenance by the County Assessor or Engineer to clear, keep it clean and clear. Now, if that's going to hold up, if that stays the way it is, I'll say we've got to have an easement so the county can keep it up. Or, if it's someone else that goes in there to have to clean it, that they have an easement there on the property.

President Melcher: I really don't know how we can do that. It's on private property. It is a ditch, and it's on private property, but hearing what we've heard tonight, I don't think there's anything we can do, except that if it does create a problem in there where it's stopping the water, we could do something about it then, but, until that happens, I think it's open. I'll leave that to our legal, but I'm sure that's right. Isn't that right?

Joe Harrison, Jr.: Yeah, I mean, the county's just not, I mean, there's not a, it's not affecting a roadway, right? I mean, and that would be about the only situation where the county would maybe try to get an easement. In this situation they're concerned with the ditch along the roadway.

Kenny Fehd: Right.

Joe Harrison, Jr.: They went out this year and cleaned that out, and they're going to continue to do that. That's the intent. As far as what he's saying on the private property, there's just really no mechanism for the county, and no real legal reason why the county would ever go on private property and do anything further, other than, as Mr. Mueller said, if someone obstructs it and causes a problem for those landowners out there, this Drainage Board can get involved with that, and they will.

Kenny Fehd: Well, then if it's gonna....pardon me, if it's going to stay there like it is, that neck from along the road underneath 164 will wind around and it goes north, if that neck there, that's on private property, we've got to have an easement to go on that private property to keep it up.

Commissioner Abell: It's the owners, I would assume, that would keep that up, isn't it?

Joe Harrison, Jr.: I don't know how, the State's right-of-way, I'm not too sure how close it is to that. It's just the road?

Jeff Mueller: Yeah, it doesn't go over that far, I don't think. John, you looked at it, didn't you? Yeah, it doesn't go that far over.

Joe Harrison, Jr.: I mean, I was going to say, maybe their right-of-way is in the neighborhood, but apparently it's not. I mean, the county just has no purpose or reason to have an easement there. There's no roadway or anything and there's no legal drain, right?

Kenny Fehd: Well, who's going to keep it up? Who's going to maintain it?

Commissioner Abell: The landowner.

Joe Harrison, Jr.: The landowners are supposed to, by law.

Kenny Fehd: By who?

Joe Harrison, Jr.: Law.

President Melcher: I guess, I'm a little confused. Are you talking about the Warrick side?

Joe Harrison, Jr.: No, he's talking about on the Vanderburgh County side.

President Melcher: Okay.

Kenny Fehd: Yeah, when it turns away from Millersburg Road and goes north—

President Melcher: Right, now that would be—

Kenny Fehd: — that neck there.

President Melcher: — the landowner.

Kenny Fehd: That would be on private property, right?

President Melcher: Right, and we've got a lot of ditches like that now. If it creates trouble, and we know about it, we could do something, but we can't do anything until it happens.

Kenny Fehd: Can you give an easement for that private property?

Joe Harrison, Jr.: No.

President Melcher: No, our attorney is saying no.

Kenny Fehd: It would have to come from the owner, right?

Commissioner Abell: Yeah.

Joe Harrison, Jr.: Well, but I don't know, the county wouldn't want an easement.

Kenny Fehd: The county don't want to take care of it?

Joe Harrison, Jr.: Well, we're not in the business of taking care of private property.

President Melcher: We're going to take care of the one along the road it sounds like, and then if that one creates a problem, our crew will see it and they'll let us know, or somebody out, one of you guys will let us know, and then we'll start working on it. I mean, I think that's the best we can do legally this evening.

Kenny Fehd: Well, now, how come, I'm going to make this comment, and the feelings of other people that's been involved in this, let's take it back to the way it was the old way and forget about this neck.

Joe Harrison, Jr.: Well, we talked about that earlier, the State did that when they constructed the interstate. That had nothing to do with the county.

Kenny Fehd: Well, the county had that ditch before the interstate was ever put through there.

Joe Harrison, Jr.: From what they told me, the State...is that right, Mr. Mueller?

Jeff Mueller: Our understanding is, one of the reasons why it was changed was because this stretch of ditch right here was not being maintained, and, again, it was on private property and the owner wouldn't keep it maintained.

Joe Harrison, Jr.: So, the State did this?

Jeff Mueller: Yeah.

Joe Harrison, Jr.: I mean, the county didn't do it. The county didn't build the interstate.

Kenny Fehd: Well, all the years that I've been involved in this, my parents and grandparents, I've always understood that that ditch was kept up by the county all the way to the creek, Bluegrass Creek. That's the old way I'm talking about. Now, we have a situation here where we're running the water on private property. That isn't right.

Commissioner Abell: It was on private property before.

Kenny Fehd: If that's so, we're doing damage to him then. Let's get an easement of that drainage.

President Melcher: As what the Surveyor just said—

Kenny Fehd: That's going to stay there.

President Melcher: — that was private property back then. If the county did any work on it, they went on private property to do it, if they did.

Joe Harrison, Jr.: Mr. Stoll may have a comment. He's got something there. County Engineer, he might have a comment.

John Stoll: Where that ditch at a 45 up towards Bluegrass Creek, it didn't drain, based on my discussions with INDOT, so that's why they had to find an alternative to try to make it drain. It was overgrown and the property owner wouldn't provide an easement for them to do any cleaning of that ditch. So, the roadside ditch along Millersburg wouldn't flow, to run it through the borrow pit then became the best option. The county didn't maintain the ditch that runs to Bluegrass at the time that the interstate was built, based on the sketches I have with INDOT. So, it switched the ditch from running across private property at its old location to a ditch running across private property in a new location.

President Melcher: I don't know what we could do anymore than what we could do, but if you could just keep us abreast if that ditch fills up or something.

Kenny Fehd: There is no way that we can get an easement on that private property unless we get it from the owner?

President Melcher: Yeah, and I don't think the owner is going to give us any easement.

Joe Harrison, Jr.: I don't know if we would want an easement, because it's not something the county does. You know, there's no reason to have the easement.

Kenny Fehd: You know that we spent almost six hundred dollars to get that opened up, that neck, and privately we did that to clean it. Now, that's not right. I don't think that's fair. That's a county ditch that emptied into it. I don't think that that's fair that we have to spend money to have a leeway for a county ditch.

President Melcher: I guess, what we're trying to say, and correct me if I'm wrong everybody, you shouldn't have had to spend any money on that, and we probably could have done something about it to take care of that, if we had known about it. We could have you to file a petition, and we could have got it as a drainage blockage, and you wouldn't have had to spend your money, the property owner would have had to spend his money.

Jeff Mueller: Except I want to point out, that the drain was not blocked. There was water running through it. Now, Mr. Fehd will tell you that when they had four inches of rain, it blocked up, but we had a lot of places that we had blocked when we had four inches of rain. As far as the expenditure is to you, Mr. Fehd, I've got people all over the county that come to me and say, I've got a tree in my backyard that's

blocking a ditch, and I tell them, yes, and it's your ditch and you have to maintain it. That's part of, it's not like in, when you look out your front yard and there's a county road, the county maintains it. Every road is maintained pretty much by the county or city, except for a few small lanes. Drainage is not that way. Most of the water that's carried through Vanderburgh County is maintained by private property owners. It's their responsibility. I didn't make the Indiana drainage law, that's the way it's done. Except for the legal drains, which we have 80 miles in Vanderburgh County, which sounds like a lot, but isn't, the rest of the drains are all maintained by private landowners. That's the way the law is, and that's the way things are set up. We could do it another way and say we'll take over every ditch in the county, and we would have to start taxing people, and they're not going to be happy about that. So, that's the way our system works right now, Mr. Fehd.

Kenny Fehd: Yeah, well, I understand what you're talking about. I agree with you. There's all over the county—

Jeff Mueller: Right.

Kenny Fehd: — we've got different places that it's not drained right.

Jeff Mueller: The other issue is, if you start sitting there and taking on all these drains and saying, well, the county is going to maintain them with county road funds, first of all, I don't know if the State would like that, and second of all, all of a sudden we're not going to have any asphalt on our roads because we're cleaning our ditches out. There's only "x" amount of resources available. So, that's just the way it is, Mr. Fehd. I'm sorry.

Kenny Fehd: Well, I think, then there ought to be pressure put on the man that owns the ground, or the persons that own the ground, they have to be pushed to get them drained, or get them cleaned.

President Melcher: And, that's what we've been saying, all you've got to do is let us know.

Kenny Fehd: Yeah, will that part be taken care of?

President Melcher: Well, if something happens it will be taken care of. We don't have to say nothing now, but if something happens, and we find out about it, we'll do something then. We'll call them in here.

Kenny Fehd: That the property owner be forced to clean that out? Keep it clean?

President Melcher: Exactly.

Joe Harrison, Jr.: If there's a problem down the road, and there's an obstruction petition.

Kenny Fehd: If the problem arises again?

Joe Harrison, Jr.: You need to call Mr. Mueller.

Kenny Fehd: Yeah.

Joe Harrison, Jr.: He's your man.

Kenny Fehd: Okay.

Joe Harrison, Jr.: He'll take care of you.

President Melcher: Did you want to say something tonight too? I didn't want to leave you out.

Wayne Fehd: I don't think you want to hear what I have to say.

President Melcher: Okay.

Kenny Fehd: Okay, thank you.

Joe Harrison, Jr.: He's your man.

President Melcher: Okay, thank you.

Jeff Mueller: I will put it in the tickler file that next spring that we'll go out and look at it, and if it needs to be cleaned out, the county portion, that we'll get a hold of the County Highway Garage, I'll put that on my file to in the spring to go out and look at it so that we can keep, the county can make sure and keep their county ditch cleaned out. Okay?

President Melcher: Just keep going on your list.

Jeff Mueller: Okay.

Burkett-Moore Drainage Obstruction Petition Update

Jeff Mueller: Burkett-Moore. As you're aware, this is out off of Staubs Lane. The work was to be completed on October 1, 2013. On September 30th, as reported in the 10/18¹ meeting, some of the work had been done, but not all, that included some rip rap and some additional pipe work. I gave a punch list to them on October 1st. On October 8th the work wasn't completed due to three inches of rain that we had over the weekend of the 5th and 6th. I can go on through, but the end result is, yesterday I contacted Mr. Moore and I gave him a three point punch list, and he said it would be done by today. The three points were, this is where the ditch had been cleaned out, but as you can see that pipe is not 100 percent, the tile spade is all that's needed to be done there. It still needs to be done. Somebody went out today and did a little bit of work, but nothing well enough, at least in my opinion. The second thing was on the other side where the rip rap comes out, there was a piece of plastic pipe....I think I went too far. The third thing was this area had to be seeded. They did seed the area, but in my opinion there's two things that still need to be done. They are 21 days past due. A little bit of effort was done between yesterday and today. I mean, I can write them a nasty letter saying, look guys, get out there with a spade and finish this job up. Or, is there something else that the Board would like me to do on this issue. It seems like it drags and drags.

President Melcher: Well, can't you do that, Joe? It seems like it would be stronger from an attorney saying we're already 21 days or whatever.

¹Should be 10/8.

Joe Harrison, Jr.: I'll get with Mr. Mueller, we'll send him a letter that the Drainage Board is—

President Melcher: Wanting it done.

Joe Harrison, Jr.: —wanting it done, and it had better be done by the next meeting. Otherwise, they're going to have to show up at the meeting.

Jeff Mueller: Okay.

Joe Harrison, Jr.: If not, they may get a civil penalty or something along those lines. Does that make sense?

Commissioner Kiefer: Yeah, I think something strong coming from an attorney would help.

President Melcher: Well, I do too. That seems to move things.

Jeff Mueller: I mean, I've been calling and going out and looking, and we're wasting a lot of time on this project, unfortunately.

Joe Harrison, Jr.: I'll get with Mr. Mueller, if that's okay, and we'll send them a letter.

President Melcher: Okay.

Joe Harrison, Jr.: If they don't get it done, they'll have to show up on what, November 5th? Is that the next meeting?

Madelyn Grayson: Yes.

Jeff Mueller: Yes, I believe so.

Commissioner Kiefer: Sounds good to me.

Plocik-Baker Drainage Obstruction Petition Update
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Jeff Mueller: The plus side, the Plocik-Baker. This is the one up where the retaining wall was. The work started on this on Friday, and was completed today at 2:30. Essentially, that wall used to come this way. It has been turned. The dirt that was behind it was removed. This is Mr. Plocik's drain. When I showed you pictures before there was standing water. As you can now see the water can come through here. The water that used to come through here and was blocked by a dead tree, that dead tree has been removed. I was out with Mr. Plocik today, and with one exception, he's very happy with what's been done out there, and he's very appreciative of the Board for their actions. The only thing that hasn't been done, is, as you will recall, when we told them to submit a plan, we told them that the plan had to meet all criteria. Included in that criteria was that, even though you had a retaining wall, if you did, if you had a total of six feet, then this fence had to be moved back five feet off the property line. That is in the plans, but it states the fence has to be moved. Now, the fence is not blocking any drainage, but it was part of the approved plan to say that the fence must be moved three feet. Okay? So, the question is, this just shows it from the other direction, and, again, this fence should be over here three feet so that it's a total of five feet off the property. So, the water running part

of your drainage order has been completed, and Mr. Plocik's quite happy with it. His only comment is, also in the order was that the fence was to be moved within, outside the five feet. So, and, Mr. McCullough who does work for us and who was the contractor here, that was not part of his contract. His contract was just to do that. So, I think there's a little bit of issue between the previous landowner, the Bakers, and the current ones on who was going to pay for the fence. So, that's why this has kind of been up in the air. My suggestion, again, would be that we would send a letter to the Baker's saying that as part of your requirement you need to move the fence over. So, if we take the same tact as what we did before, I would get with Mr. Harrison. Is that, would that be the Board's pleasure?

Commissioner Kiefer: I think that's a great idea.

Jeff Mueller: But, I will tell you, Mr. Plocik is very pleased with the water part of the work that's been done out there. He is very appreciative of every one and their efforts. So, he even said he wasn't going to be at the meeting tonight, unless we wanted him here.

Commissioner Kiefer: No, that sounds good. Joe, you'll work with him?

Joe Harrison, Jr.: Yes, I'll get with Mr. Mueller, if that's okay.

President Melcher: Okay, that's fine.

Jeff Mueller: So, we are making some progress, and some good one on this one.

Commissioner Kiefer: Thank you.

Jeff Mueller: Some good, honest efforts here.

Joe Harrison, Jr.: Maybe with the letter we can send some nice photos too.

Jeff Mueller: I will point out, on this one, it was supposed to be done 10/15, and their engineer came in and talked to me a couple of days before, and said, you know, it's been raining. I said, I know, and the Board meeting won't be until next week, get her done. You know, they've made very good efforts on the dirt part of it.

President Melcher: It looks like it.

Jeff Mueller: So, anyway, this was Mr. McCullough, the same one that did a certain person's on the west side. I won't mention the name, but he did the swimming pool issue out there. He's done good work.

Commissioner Abell: Yeah, we don't talk about that anymore.

Jeff Mueller: I'm not going to mention the name.

President Melcher: Ever again.

Other Business

President Melcher: Any other business?

Jeff Mueller: I do have drainage claims.

Ditch Maintenance Claims

Jeff Mueller: They're summarized on your sheet.

President Melcher: So, I'm going to need a motion to approve to pay the claims.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: And, it's okay for Madelyn to stamp them with our names?

Commissioner Abell: That's fine with me.

Commissioner Kiefer: That's good.

President Melcher: Okay.

Public Comment

President Melcher: Public comment? Okay, I need a motion to adjourn.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We are adjourned.

(The meeting was adjourned at 6:12 p.m.)

Those in Attendance:

Stephen Melcher

Jeff Mueller

Kenny Fehd

Others Unidentified

Joe Kiefer

Joe Harrison, Jr.

John Stoll

Members of Media

Marsha Abell

Madelyn Grayson

Wayne Fehd

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 5, 2013**

The Vanderburgh County Drainage Board met in session this 5th day of November, 2013 at 5:42 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

Commissioner Abell: Drainage Board will begin immediately.

President Melcher: Yes, we would like to go ahead and get started as soon as possible.

Madelyn Grayson: I'm going to pass around an attendance sheet for Drainage Board, if anybody is here for that as well.

Pledge of Allegiance

President Melcher: Okay, if we could rise for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the October 22, 2013 Drainage Board Meeting Minutes

President Melcher: Alright, do we have a motion to approve the previous minutes?

Commissioner Kiefer: So moved.

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

Commissioner Kiefer: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Thank you.

**Encroachment Agreement and Revised Drainage Plan
for Eagle Plaza, Lot 21 and Part of Lot 20**

President Melcher: Encroachment agreement and revised drainage plan for Eagle Plaza, lot 21 and part of lot 20.

Jeff Mueller: Yes, what you have before you, I believe I've got it stapled together, there's a slight drainage plan change. What's actually going on is this is the car wash that's next to Fifth Third Bank that's out by Home Depot and the movie theaters out on the west side, in Eagle Plaza. What's being proposed out there is that, there's an area behind Fifth Third that the car wash is going to acquire. There is currently a drainage easement that goes through the property that they're encroaching on. The drainage from Fifth Third will be going across this area, and if you look on the handout I gave you, on the drawing C, Exhibit C, it looks like this, it kind of shows

what's going on. Essentially, what you have is that they're going to be putting additional pipes and some other stuff across the, conduit and stuff across the area that's already got an easement, and then the new easement they're going to be paving over. So, what this request is, is first of all permission, there's a slight change in the drainage, and then you're giving them an encroachment agreement. The previous encroachment agreement is going to go away, and the new one is going to take it's place, but you're allowing them to encroach on two easements with some asphalt, with some utilities and some things like that. Mr. Stoll has also looked this over, Mr. Harrison has looked it over, with what we have now no one has any problems with it. So, I would recommend approval of it.

Commissioner Kiefer: I make a motion to approve.

President Melcher: I'll second it. Any discussion? Do you want to call the roll?

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: I'm going to abstain. I wasn't here for the conversation.¹

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 2-0)

President Melcher: So, it passes. Thank you.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Then, we're going to get an update on the Burkett-Moore drainage petition.

Jeff Mueller: Yes, on that one, a letter went out last week. We have not heard back from Mr. Moore. Joe has not gotten the green card back. It was sent regular mail and certified mail, so we don't know, technically, if he's actually received the letter from Mr. Harrison yet. I did go out there today at 1:00, no work has been done since the previous Drainage Board meeting. Should I bring up the other issue? The other issue we found out is that the Burkett's have filed suit against Mr. Moore. It was just filed yesterday. So, I'm just kind of throwing that in the mix of things. The work that I'm requiring him to do is not that substantial, but I don't know if we're going to get a response back or not on that.

Joe Harrison, Jr.: Yeah, my recommendation would be to just come back at the next meeting and see where we are. I should get the green card back any day now on the certified mail. It's my understanding that there has been a civil suit filed. There was another party to the case too that filed the suit. It was Grubb. Is that the neighbor?

¹Commissioner Abell joined the Drainage Board meeting a few minutes after it began.

Jeff Mueller: Yeah, I think that's the neighbor that lives downstream, if I remember right.

Joe Harrison, Jr.: So, it was Burkett and Grubb filed suit against Mr. Moore.

Jeff Mueller: Right, that's my understanding, yes.

President Melcher: Okay.

Joe Harrison, Jr.: So, I would ask that we come back in two weeks.

President Melcher: Yeah, let's just table it until the next meeting. I need a motion.

Commissioner Kiefer: I'll make a motion to table it to our next meeting.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Okay, go on.

(Motion approved 3-0)

Plocik-Baker Drainage Obstruction Petition Update
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Jeff Mueller: Plocik-Baker. There's been a number of e-mails that went back and forth on this. I don't know how many of those you were copied on. Essentially what happened was, Tammy Steckler, who is the buyer of the Baker property, was complaining about, if you recall in the last meeting I reported that all of the drainage work had been done. The only thing that needed to be done was the fence needed to be moved. The requirement to move the fence was because it was believed it was not in compliance with Area Plan. Tammy Steckler approached Area Plan about what she could do to not move the fence, whether she could go to the Board of Zoning Appeals. The Area Plan Commission looked through the regulations, and they determined that because the fence was only six feet from the dirt, that's the way they measured it, and because of that, that the fence was in compliance. So, as far as Area Plan is concerned, the fence is now in compliance. So, with that issue, it's my opinion that we've met all the drainage issues. If the fence is now in compliance, I would request of the Board that put this petition, that we say it's completed. I did talk to Mr. Plocik today, and did tell him about the fence issue, and that if there was, if he had any issues with the fence that he needed to bring them up with Area Plan, but the Drainage Board, we had done the portion of the drainage. So, my opinion, my technical opinion is that we've done the drainage work, and therefore it's no longer an issue with the Drainage Board.

Commissioner Kiefer: Do we need to make any kind of motions on this, or is it just an update only?

Joe Harrison, Jr.: I think it's just an update.

Commissioner Kiefer: Okay.

Jeff Mueller: Well, my only concern would be that since the fact that we left it open that there was still work to be done, if we're saying now there isn't any work to be done, shouldn't we close it?

Joe Harrison, Jr.: That's fine, if you would prefer to have a motion saying that there's no more drainage issues outstanding with respect to the previous order of this Board.

President Melcher: I would want to add that the Area Plan has ruled it a legal fence.

Joe Harrison, Jr.: And that Area Plan has determined that the fence that is there is in compliance with the county code.

Jeff Mueller: Then in the package that I gave you there is an e-mail from Mr. London stating that.

Commissioner Kiefer: Steve, are you going to make the motion?

President Melcher: I thought you just did.

Commissioner Kiefer: Okay, well, then I'll make a motion to that effect as stated by our Counselor.

Commissioner Abell: Second.

President Melcher: We'll have a roll call on this one.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Letter from Tammy Steckler Regarding Plocik-Baker Petition

Jeff Mueller: The only other thing that I have on the agenda is the letter from Tammy Steckler, but that was in regards to the fence. Since we've dealt with that, I don't know if there's anything else we need to do with that. You all were copied on that. If you would like to have a copy of the letter, it's a letter, you know, requesting that the fence not be moved, as well as some issues about she wasn't happy about that all of this was done to begin with, but she bought into the problem too.

Commissioner Abell: She what?

Jeff Mueller: It was with the Bakers. You know, she was saying why was all this work done to begin with, and she's the one that bought into it, you know, the petition was with the Bakers. I've got a copy of this letter if you want to see it. I think you were copied on it.

Commissioner Abell: She's the new owner of the home?

Jeff Mueller: Yes.

Commissioner Abell: She bought it with all of these problems going on?

Joe Harrison, Jr.: Right.

Jeff Mueller: Yes.

President Melcher: And they stood up here and said yes.

Joe Harrison, Jr.: Well, I don't know if they did.

Jeff Mueller: Well, but she was here at the September 10th meeting when the plan was put in, and she never spoke against it.

President Melcher: We gave everybody the opportunity that night, because I didn't want this.

Jeff Mueller: I agree.

Joe Harrison, Jr.: But, it's all done.

Jeff Mueller: So, there's nothing there, as far as I'm concerned.

Ditch Maintenance Claims

Jeff Mueller: The only other thing is....I have no ditch maintenance claims.

Other Business

President Melcher: Okay, then I guess we've got something approving our storm water quality management plan?

Jeff Mueller: I'm not sure.

President Melcher: Never mind. Any other business to come before the Drainage Board?

Commissioner Kiefer: Move to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We are adjourned.

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

Those in Attendance:

Stephen Melcher

Jeff Mueller

Others Unidentified

Joe Kiefer

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 19, 2013**

The Vanderburgh County Drainage Board met in session this 19th day of November, 2013 at 6:17 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Drainage Board as soon as possible. We might save \$100.

Pledge of Allegiance

President Melcher: Please stand for the Pledge.

(The Pledge of Allegiance was given.)

Approval of the November 5, 2013 Drainage Board Meeting Minutes

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

Commissioner Abell: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Thank you.

Drainage Plan Approval: Mesker Park Minor: Lot 1

President Melcher: Drainage plan approval for Mesker Park Minor, Lot One.

Jeff Mueller: Okay, this is submitted by Newkirk Engineering. The plan was dated November 12, 2013. It's essentially a drainage plan for the Scherer Monument Works. This is located at 66 and Mesker Park Road. There's an existing two lot subdivision there. What the drainage plan submitted is essentially for the Monument Works, it's a site plan for the ditch designs and confirms that the development meets the criteria of the previously designed basin. I recommend that the drainage plan be approved.

Commissioner Abell: I'll move for approval.

President Melcher: Second. Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 2-0)

President Melcher: Thank you.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Next is an update on the Burkett-Moore drainage petition.

Jeff Mueller: As you might recall, the letter was sent by Mr. Harrison on October 30, 2013 to Mr. Moore, to the Moore's, outlining some deficiencies. We did receive, or Mr. Harrison received the green card back dated November 7th, so they did receive the letter. I received a call from Jane Moore on November 12th stating that she believed the work was completed. I made an inspection on November 15th. The outlet was cleared, as I had requested, but the inlet is still blocked. I had numerous conversations yesterday on this, with a number of people. Mr. Burkett called and told me about the rainfall situation over the weekend and how there was still standing water. I told him that I was still not happy with the inlet and that more work was going to be done. I also met with Kip Staub, a contractor, Mr. Staub had contacted me at the Moore's request. I met with Mr. Staub, I showed him what needs to be done. He understands what needs to be done. So, as long as the Moore's give him the okay, then, hopefully this project, from our viewpoint, will be done. I told Mr. Staub, he was going to try to get it as soon as possible. I said, we'll let you get in there and try to get it done this week, but don't do it today, because it was still pretty muddy. So, if we don't have any rain, he'll hopefully get this done this week. It just has to dry out. We are staying on top of this. We are making progress. Not near as fast as I would like, but I'm hounding it the best I can.

Commissioner Abell: This has been on our agenda forever. I hope it will go away.

President Melcher: Well, I've noticed that a couple of them have gone away.

Jeff Mueller: I'm working at them. I'm being like a dog, you know, chewing on it. I'm trying to.

Other Business

President Melcher: Any other business?

Jeff Mueller: Yes, I do. I'm sorry, there's one other issue. Fed Ex out at the VIP Park had, their engineering firm had given us notice awhile back that they planned on doing 13,000 feet of impervious surface, and wanted to know what was needed. I told them they needed to submit a drainage plan. They have submitted a drainage plan. Interestingly enough, now they're going to only have 9,000 feet of impervious surface. So, it's questionable whether they need to even have one. But, they've given one, essentially what they're going to do is add a little bit of storage in an existing ditch. We do need a drainage easement. They've submitted a drainage easement. It needs a few fine tuning, but I would request that this plan be approved pending once we get the drainage easement.

Commissioner Abell: So moved.

Commissioner Kiefer: Second.¹

President Melcher: Any further discussion? Roll call please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Ditch Maintenance Claims

President Melcher: Ditch maintenance claims?

Jeff Mueller: I do have several of them, totaling just under \$8,000. A summary sheet has been given to you, and they're right here.

President Melcher: Okay, I need a motion to approve.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: Roll call please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

¹Commissioner Kiefer joined the meeting late.

Public Comment

President Melcher: Any public comment? We only have two people left. You don't have anything? Anybody else have anything? Okay, so, we'll take a motion to adjourn.

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 6:21 p.m.)

Those in Attendance:

Stephen Melcher

Jeff Mueller

Others Unidentified

Joe Kiefer

Joe Harrison, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDEBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
DECEMBER 10, 2013**

The Vanderburgh County Drainage Board met in session this 10th day of December, 2013 at 6:05 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board. It's December the 10th, it's about five after six. I think everybody's here.

Pledge of Allegiance

President Melcher: If everyone would rise for the Pledge.

(The Pledge of Allegiance was given.)

President Melcher: Thank you.

Approval of the November 19, 2013 Drainage Board Meeting Minutes

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

Commissioner Kiefer: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Burkett-Moore Drainage Obstruction Petition Update

President Melcher: Update on the Burkett-Moore drainage petition.

Jeff Mueller: I would like to tell you this is finished, and it could be. There was some additional work that I required. Some of it was done, I checked. There was a little bit more work to be done. I talked to the contractor today, he said, it wouldn't surprise me, because he said it is done, because when I talked to him before it was right before the storm hit. So, all I need to do is to get out, take a look at it, and hopefully next meeting I can tell you it's done. There was some shovel work and a little bit of tacking on the filler fabric that needed to be done. So, next meeting we should have, hopefully, we can say this one's done.

President Melcher: Maybe we can get a couple of pictures or something. So, if something comes up later, we can say, well, somebody changed it, because it's not here.

Jeff Mueller: Well, that was the other reason, Mr. Melcher, was with the snow on the ground I didn't think pictures would be very good.

President Melcher: No, I agree with you.

Jeff Mueller: So, anyway, that's where we're at on that one.

Commissioner Abell: Mr. Mueller, you do realize that this is just a four year term, right?

Jeff Mueller: Remember, I inherited one.

Letter from Evansville Courier: Meeting Dates Request

President Melcher: Okay, letter from the Courier ?

Jeff Mueller: Yes, we just received a letter, you know, requesting to know what dates it is. I'm assuming that since we've just done an ordinance and that ordinance mentioned that the Drainage Board meetings were to follow that we've got the Drainage Board meetings set for next year?

Joe Harrison, Jr.: That's correct.

President Melcher: Those are the same ones we just passed, with the two corrections. We made two corrections.

Jeff Mueller: No, I mean, I'll get it.

Joe Harrison, Jr.: You can get it from Madelyn.

Jeff Mueller: I heard them, but we'll get a complete list so we can put it on—

President Melcher: You meet right after the Commissioners meeting.

Madelyn Grayson: The ordinance is also posted on our website as well.

Jeff Mueller: Yeah, and we'll post the Drainage Board meeting dates on ours.

Other Business

President Melcher: Other business?

Jeff Mueller: I don't have anything else.

Ditch Maintenance Claims

Jeff Mueller: I don't have any claims. We will have several at the next meeting.

Public Comment

President Melcher: There's nobody in the audience, so that leaves out public comment. Anything else from the Commissioners?

Commissioner Kiefer: Move to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

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

Those in Attendance:

Stephen Melcher

Joe Harrison, Jr.

Others Unidentified

Joe Kiefer

Jeff Mueller

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson)

**VANDERBURGH COUNTY
DRAINAGE BOARD
DECEMBER 17, 2013**

The Vanderburgh County Drainage Board met in session this 17th day of December, 2013 at 5:52 p.m. in room 301 of the Civic Center Complex.

Call to Order

Commissioner Kiefer: I would like to call to order the Vanderburgh County Drainage Board for December 17, 2013.

Pledge of Allegiance

Commissioner Kiefer: Mr. Mueller, if you would like to lead us in the Pledge.

Jeff Mueller: Sure.

(The Pledge of Allegiance was given.)

Approval of the December 10, 2013 Drainage Board Meeting Minutes

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

President Melcher: Move to approve.

Commissioner Abell: Second.

Commissioner Kiefer: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Commissioner Kiefer: So approved.

Burkett-Moore Drainage Obstruction Petition Update

Commissioner Kiefer: Update on Burkett-Moore drainage petition.

Jeff Mueller: I need to meet with the contractor and we'll leave it at that.

Commissioner Abell: This is too funny.

Commissioner Kiefer: I like that.

Other Business

Commissioner Kiefer: Okay, other business?

Jeff Mueller: I have claims.

Ditch Maintenance Claims

Jeff Mueller: There's a summary sheet there, but there's claims for just a little over \$27,000 for a number of ditches.

President Abell: (Inaudible. Microphone not on.)

Commissioner Kiefer: The claims.

Jeff Mueller: Ditch claims.

President Abell: Oh, claims. I thought he said he had plans.

Jeff Mueller: No. I've got plans too, but....with two girls in high school, I always have plans. They'll schedule them for me.

Commissioner Kiefer: Well, give us a minute then to look at the claims, I guess.

Madelyn Grayson: There's a summary sheet.

Jeff Mueller: There's a summary sheet. I gave you a spreadsheet right behind the agenda.

Commissioner Kiefer: Right. Okay, are there any questions from the Commissioners on any of the claims?

President Abell: I don't see it.

Commissioner Kiefer: Right behind the agenda.

Jeff Mueller: Most of the claims are for annual maintenance, for the spraying and for mowings. There's nothing, and it's everything that you all approved either in the specifications originally, or some of the extra work that I requested.

President Melcher: Move to approve the claims.

Commissioner Abell: Second.

Commissioner Kiefer: Roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

(Motion approved 3-0)

Commissioner Kiefer: Thank you. You voted for me too. Okay, is there anything else?

Jeff Mueller: I have no other business.

Public Comment

Commissioner Kiefer: Public comment?

Jeff Mueller: Do you have a comment?

Unidentified: No.

Commissioner Kiefer: Is there a motion to adjourn.

President Melcher: So moved.

Commissioner Abell: Second.

Commissioner Kiefer: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Those in Attendance:

Stephen Melcher

Joe Harrison, Jr.

Others Unidentified

Joe Kiefer

Jeff Mueller

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Joe Kiefer, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)