

**Vanderburgh County  
Drainage Board Meeting  
January 27, 1997**

President Tuley: We'll call the Drainage Board for Monday, January 27, 1997 to order.

<b>Reorganization of Board</b>
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President Tuley: The first order of business, since this is the first meeting in January, is to reorganize the Board. So I'll entertain a motion for nomination for president.

Commissioner Mourdock: I will nominate as President of the Board, Commissioner Bettye Lou Jerrel.

President Tuley: I will second and so order, I guess would be the appropriate thing to do. We need a nomination for Vice President, whose only job is to fill in on any night in which the President is not there.

Commissioner Mourdock: Can one nominate himself? Is that--

President Tuley: That would be appropriate.

Commissioner Mourdock: I will nominate myself, Richard Mourdock, for that position.

President Tuley: I will second and so order. I guess I should have let you second Bettye. So, Mrs. President--

President Jerrel: Alright.

Commissioner Tuley: It looks like it's a fairly easy first meeting.

President Jerrel: Mr. Jeffers?

Bill Jeffers: I believe the statute also requires that you elect a secretary.

President Jerrel: Okay, the floor will entertain motions for secretary.

Commissioner Mourdock: I will nominate as Secretary for the Drainage Board, Commissioner Tuley.

President Jerrel: I will second that and so order.

Commissioner Tuley: Secretary in what role now? Let's make sure we understand this.

Commissioner Mourdock: That's a good point.

Bill Jeffers: I have no idea.

President Jerrel: We have some immediate needs.

Commissioner Tuley: There's no way I'll be able to get this agenda together and type your minutes and all that kind of stuff.

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Commissioner Mourdock: Yeah, and that wasn't the intended motion. I guess in the literal sense, Bill, do you know are they asking for a recording secretary or --

Bill Jeffers: It's 36-9-27-7A.

Commissioner Mourdock: I'm sorry. I was thinking that was a formality.

Commissioner Tuley: That's okay. If it's just a formality, that's fine.

President Jerrel: Well, we have a full body--

Joe Harrison Jr.: I'll just tell you what the statute says. The Board shall organize in a meeting each January by electing one of its members as Chairman, one of its members as Vice Chairman, at the same time the Board shall elect a secretary who need not be a member of the Board.

President Jerrel: Well, the first year that's the way it is.

Commissioner Tuley: I'm just going to tell you straight up though, if your anticipation is I'm going to type these minutes and stuff, you can forget it.

Joe Harrison Jr.: Well, I think we've got somebody that's doing that.

Charlene Timmons: If not, you can elect me as Recording Secretary if you like.

President Jerrel: Okay, I'll entertain a motion for Recording Secretary.

Commissioner Tuley: Oh, gladly.

Commissioner Mourdock: I will nominate--

Commissioner Tuley: Thank you, Charlene.

Commissioner Mourdock: --Ms. Charlene Timmons who will be seen shortly after this meeting receiving a sum of cash.

Bill Jeffers: I was just trying to get her another \$35 a meeting if you want to know what I was after.

Commissioner Tuley: Well I appreciate that, and for me not having to do it I'll give her my \$35.

President Jerrel: Is there a second?

Commissioner Tuley: There is a second.

President Jerrel: Okay, so ordered.

Commissioner Mourdock: Thank you, Charlene.

President Jerrel: Is there another election we need to do or

are we ready for business?

Joe Harrison Jr.: It looks like you're okay.

**County Surveyor's Annual Ditch Report**

Bill Jeffers: Later in that same statute is a requirement that the County Surveyor deliver an annual report to the Board on the condition of regulated drains in the county. This is the report for 1997 that I've placed in front of you. At our next meeting in February we will present you with a set of specifications to perform maintenance on those regulated drains. Basically, the special provisions section of that set of specifications will address the problems enumerated in this report. This report pretty much just covers conditions that require special attention rather than spraying herbicides and mowing grass which is our regular form of maintenance that's basic. In this report you will find things that require special attention.

Commissioner Mourdock: I'll move then that we accept the Annual County Surveyor's Drainage Report.

President Jerrel: Second?

Commissioner Tuley: I will second.

President Jerrel: So ordered. Will this be then the specifications for maintenance of regulated drains will be an agenda item for next time?

Bill Jeffers: Yes ma'am, in February. At the same time we will ask you to advertise for bids to enter into contracts with entities to perform the work specified in the documents that you will get in February.

President Jerrel: Do you mind if I ask another question?

Bill Jeffers: Sure.

President Jerrel: So that will be two items for the agenda. Would it be possible for you to call me or meet with Tony so that we can, you know, get this ahead of time so we can give it to the Commissioners? Is that the way you do it?

Bill Jeffers: Well, halfway through 1996 the office who had been generating your agenda requested that someone else generate the agenda. There's been really a lack of communication since that point as to what belongs on the agenda. For example, I don't know when the minutes of the previous meeting are ready for approval.

President Jerrel: They are here and I haven't asked...the December 23rd minutes?

Bill Jeffers: Right, so I didn't know whether that should be on the agenda. So at this time, since you're a new Drainage Board, I just brought the items on this list that we would be presenting to you from our office, not knowing what else might comprise an agenda.

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Commissioner Mourdock: Aside from the minutes of the prior meeting, Bill, is there anything, just sitting here thinking of my experience in the last two years, other than the minutes, is there anything that comes from the Surveyor's office?

Bill Jeffers: That comes from other than the Surveyor's office?

Commissioner Mourdock: Yeah, the minutes are the only--

Bill Jeffers: The item that Mr. Easley brought to you tonight went through a channel other than the Surveyor's office. The abandonment of a drainage easement for--

Commissioner Mourdock: For the Commission meeting you mean, our prior meeting?

Bill Jeffers: Yes.

Commissioner Mourdock: Okay.

Bill Jeffers: That's not going to go to the Drainage Board?

Commissioner Tuley: All we got tonight was a permission to advertise. There was no granting of anything tonight.

Bill Jeffers: Okay, well another example would be a--

Commissioner Mourdock: But I see your point, yeah, as an example that would be--

Bill Jeffers: That's an example, I don't know if it's going to go to the Drainage Board or not. Another example would be a respondent to a petition has notified the county that they intend to challenge your ruling in Superior Court and ask for a change of venue. I don't know when that's going to come before your Board. I have no idea.

President Jerrel: Right. How would you see this working, you know, is there time before the next meeting, like say the Monday before, is that too far in advance? A week ahead or the Wednesday before? Would you know kind of what...?

Bill Jeffers: For approximately, oh, let's say, twelve years that I've appeared in front of the Drainage Board, reporting from the Surveyor, in those twelve years the Commissioners generally each year ask that the agenda be in their office by noon, for the Drainage Board, be in their office by noon Thursday.

President Jerrel: Okay.

Bill Jeffers: The agenda came to you from the Auditor's Office. The Auditor would request that anything coming from the Surveyor's Office be brought to the Auditor's Office in such a way that, like say 8:00 a.m. on Thursday, so that she could type it up and forward it to your office, he or she. Apparently that's...the current Auditor no longer wishes to handle it that way.

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President Jerrel: Well, could we have that same arrangement just bringing it down here?

Bill Jeffers: That's fine, and I will oblige you in anyway that you...you know you request the items and they will be brought to you anyway you request them, but I will point out that tonight at 5:00 p.m. item number two was removed from the agenda.

Commissioner Mourdock: Right, and if we can--

Bill Jeffers: By the same token, people will come up to me at the last minute and ask that they be added to the agenda.

President Jerrel: Right.

Commissioner Tuley: Yeah, but that happens in our regular meetings.

Commissioner Mourdock: Right. I'm not sure the two of you are saying the same thing. I think that you think you are, but I'm not sure you are. When it comes to the agenda, I think your point is well made. There are other items to be on the minutes that could come in which I hadn't thought of. That's a very valid point. You're asking can the agenda be prepared by Bill, but what Bill is saying is he can get to our office by noon on Thursday all of his items--

President Jerrel: But he doesn't know what else. That's what I meant.

Commissioner Mourdock: But he doesn't know what else is there and truly I think that's our obligation. So maybe the formal agenda ought to come out of our office, but if you can get your stuff there by Thursday, we'll do the rest.

Commissioner Tuley: Yeah, and let's add that catch all for something else. Since he says he gets one at 4:00 p.m. since we just meet once a month we can add that on as we get to the meeting.

Bill Jeffers: The other example would be that, as all of you know, occasionally there will be Drainage Board meetings where there's five or six subdivision drainage plans on the agenda. At the time, as of Thursday at noon, our office has pretty much decided what our recommendation is going to be on each of those, but at the same time, for example, Glenwood Hills, we're still working out details with the developer on Thursday at noon. Your drainage ordinance currently allows the applicant or the developer to come before you knowing that we are going to recommend not to approve the plan, he still has due process rights to come before you and ask that you consider that item. So all I can do is put on the agenda what I think will appear before you and hope for the best.

Commissioner Mourdock: We'll be responsible for filling in whatever blanks we have.

Bill Jeffers: I don't want you to think that I'm being critical of the process since September of 1996 with regard to how the

agenda has been brought to you. It's simply that I just want to know, as the new Drainage Board, how you wish it to be brought to you and that's the way it will be.

President Jerrel: Well, I think that's probably the way we'll try it and if it doesn't work we'll do something different.

Bill Jeffers: Okay.

President Jerrel: But we'll make it effective for the--

Bill Jeffers: February.

**Approval of minutes**

President Jerrel: Right. Well then the next order of business would be, and I was obviously not there, but approval of the Drainage Board minutes of December 23rd.

Commissioner Mourdock: I'll move approval of those minutes.

Commissioner Tuley: Second and so ordered.

Bill Jeffers: The only comment I have with regard to that, again, not to be negative, but just simply to state a fact, we will be taken to court, obviously, on various occasions. I believe very quickly or very soon, and the current Recording Secretary is doing an excellent job of transcribing the minutes from tapes that aren't always completely audible or understandable, but I will say that some of the words that are used by people who appear in front of the Drainage Board can be spelled different ways and have different meanings even though swell and swale and so forth. If we're taken to court we need to make sure that the exact technical or correct phrases are used in those minutes and that's why I'm hesitant to, in anyway, indicate that the Surveyor's Office is in agreement with the way that the minutes have been typed. Although lately, especially in the last six months, I have found nothing but very minor typos that wouldn't effect the meaning of the minutes. But it can happen, I've seen it happen in the past where the meaning of a sentence was totally out of context with what was said at the microphone, although not in the last several months.

President Jerrel: Okay, are you ready to proceed?

**Replat of Sycamore Hills, Phase 4 - Preliminary drainage plan**

Bill Jeffers: Yes, ma'am. Like I said, item number two was scratched, that plan is being dropped completely. Number three, in October of 1995 this Board accepted the Surveyor's recommendation to approve the preliminary drainage plan for what was then known as Sycamore Hills, Phase 4. Subsequently, this Board reaffirmed their approval of the same drainage plan minus the bridge over...what would have been a wooden bridge built over Schlensker Creek, the deletion of one lot that the road would have gone across the bridge to service, and the removal of a drainage basin. We reviewed an amended drainage plan, our office did, whereby the developer, Mr. Gary Williams, could make

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some minor modifications and utilize basins that were already constructed and ponds that were already constructed out there and not have a need for any additional retention basins. We thought that was a better plan because his lakes and ponds were already in place and with some minor modifications they could store enough excess storm water runoff to meet the requirements of the new ordinance. Since that time Mr. Williams has accomplished a majority of the punch list that we handed to him, but he is presenting a replat of Sycamore Hills, Phase 4 with some minor lot line modifications, and the Area Plan Commission therefore requires him to go back through the process. He's bringing us the same drainage plan that your Board approved in...the preliminary version of it was approved by your Board in October of 1995 and then, I believe, in November or December of 1995 you reaffirmed your approval of it with those minor modifications. He's still in the process of establishing a Home Owners' Association to take care of the basins and ditches, so therefore we're not ready to recommend approval of the final drainage plan. However, Area Plan Commission is anxious for him to appear in front of them so that they can act on his replat of Sycamore Hills, Phase 4, and our office would ask you to reaffirm at this time your approval on our recommendation of the preliminary drainage plan for what will now be called replat of Sycamore Hills, Phase 4.

Commissioner Mourdock: I will move approval of the preliminary drainage plan for the replat of Sycamore Hills, Phase 4 for the purpose of getting this back before the Area Plan Commission.

Commissioner Tuley: I'll second.

President Jerrel: So ordered. That isn't what you did on December 23rd?

Bill Jeffers: Of 1995?

President Jerrel: No, 1996. It says pending any appeal that might be made, I'll move the replat of Phase 4 for Sycamore Hills. You deferred it then, is that what you did?

Commissioner Mourdock: I don't remember.

President Jerrel: Well the motion is that you approved the preliminary plan today, right?

Bill Jeffers: Yes, ma'am.

President Jerrel: Okay.

Commissioner Tuley: Wait a minute, let's go back.

Commissioner Mourdock: Yeah, let's go back.

President Jerrel: What did you--

Commissioner Tuley: December of 1996, the last Drainage Board meeting, you weren't ready to come forward at that time maybe with a recommendation for the preliminary.

Bill Jeffers: We weren't in here last month were we?

Gary Williams: We were here, but I don't think it was completed and confirmed.

Commissioner Tuley: Right.

Gary Williams: You know there was a point it had been--

Commissioner Tuley: Right, so between then and now it's been completed. So now what we're doing is--

Bill Jeffers: Well, everything but the Home Owners' Association--

Commissioner Tuley: Right. I think Bettye's question was what did we do in December that we did differently tonight?

Commissioner Mourdock: In my notes from that meeting I had Sycamore Hills replat, Nicholson is the engineer. Final Sycamore Hills 4 replat, until Williams has met his other obligations we held off on this one.

President Jerrel: So they've been met.

Commissioner Mourdock: Yes.

Bill Jeffers: Everything but the formation of the Home Owners' Association, but that can be done...we still have the power to hold back on him. He cannot record his plat until you approve the final plan. So Area Plan Commission told us this week, please let him come forward so we can discuss the other issues.

President Jerrel: Next item or are we going to discuss it?

Bill Jeffers: No, we're finished with three, aren't we?

<b>Approval of Blue claims</b>
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Commissioner Tuley: We're ready to go on to Mr. Bassett.

Bill Jeffers: Okay, let's skip Mr. Bassett just long enough for me to present these blue claims so you can sign the three of them while he is discussing his issue. All three of these blue claims are for work on regulated drains completed in 1996. All three are signed by the Surveyor and are accompanied by the required paperwork to go to the Auditor. The Surveyor recommends payment of these claims.

Commissioner Mourdock: I'll move approval of the blue claims as submitted by the County Surveyor.

President Jerrel: Is there a second?

Commissioner Tuley: I will second.

President Jerrel: So ordered.

**Charles Bassett - Regarding petition filed against Joyce Tracy**

Bill Jeffers: Mr. Bassett. Mr. Mourdock and Mr. Tuley have met Mr. Bassett and have heard his issue discussed before them. The Board last year ruled that the obstruction cited by Mr. Bassett's petition did exist and represented an obstruction to a natural watercourse and ordered it removed. Mr. Tracy has not yet removed it and Mr. Bassett is here before you to speak.

Commissioner Mourdock: Before he comes to the microphone, Bill, one question for you. I was reviewing my notes of that meeting earlier. At that meeting when our ruling came down you offered to provide some gratis services to Mr.--

Bill Jeffers: Tracy?

Commissioner Mourdock: --Tracy. Has there been any requests for you to do that or have you had anymore contact with him?

Bill Jeffers: He called me the very next day and asked when I was coming out and said I needed to get my bags filled. I've called him several times since then and left messages on his answering machine once or twice or didn't get an answer and have not met with him in the field. Then we had our spell of bad weather and I have not yet attempted to contact him again.

Commissioner Mourdock: Okay, thank you.

Bill Jeffers: Since, oh let's say, the first of the year.

Charles Bassett: Charles Bassett, 5800 Ward Road. This is just an update and, basically, what Mr. Jeffers told you here is the story. That's about all I had really. I started September 23rd in 1996. In September I came in before the Drainage Board and filed a petition against my next door neighbors, Jim and Joyce Tracy. I tried to talk to Tracy the second time on September 25th, two days later, and all I got was cursed and threatened. A copy of my petition and a copy of the Surveyor's report of October 28th were sent by certified mail and received by Tracy on October 31st. At the November 25th Drainage Board hearing the Board ordered Tracy to level out his yard so that the water would run along the property line into the road ditch. I was unable to attend the Drainage Board meeting of December 30th on account of my being in the hospital. Since serving Tracy with the written notice on October the 31st, and the Board hearing of November the 25th, we've had some nice weather and some bad weather, but enough good weather to do the necessary work. It's obvious to me that Tracy has no intentions of correcting the situation as previously instructed by the Drainage Board. It gets uglier by the minute. Every time we get a little rain it gets another rut cut through there. I just wanted to report it. I think we never gave him any deadline which...I think that's the only problem I got into, if we'd made a deadline on it we might of got some action. But he doesn't have any intentions to either talk or do anything with me. That's all, thank you.

President Jerrel: I have a question.

Charles Bassett: Yes?

President Jerrel: What a...well, I guess it's really of our attorney. What does the law...what's the next step if this group makes a decision, orders something and nothing happens?

Joe Harrison Jr.: Can you...maybe you can enlighten me a little bit on this? Was this a drain or a watercourse or what?

Commissioner Tuley: A natural waterway.

Joe Harrison, Jr.: A natural waterway or what's being obstructed?

Bill Jeffers: We determined it to be a natural watercourse.

Commissioner Mourdock: It was an area of fairly slight relief that existed between Mr. Tracy's property and Mr. Bassett's property. Mr. Tracy, we ruled, placed the obstruction in such a way that water backs up on Mr. Tracy's property, but also backs up on Mr. Bassett's property. Mr. Tracy's point was that he needed to put that dirt in there to have better access to his backyard.

Bill Jeffers: Actually, he said he was delineating a future project. He was using this line of dirt to delineate visually a future project that he contemplated doing to access his backyard.

Commissioner Mourdock: I should add that Mr. Jeffers made the estimate that night that the total amount we were talking about here is a few wheelbarrow loads.

Bill Jeffers: Two or three, well, a couple of wheelbarrow loads.

Commissioner Tuley: A few hours work.

Bill Jeffers: The extent of the damage was that it diverted a good portion of the storm water flow over onto Mr. Bassett in a way that it had not previously been flowing.

Joe Harrison Jr.: Okay, I'm just looking at the statute here.

Bill Jeffers: Is that the new statute?

Joe Harrison Jr.: Yes, it says if the Drainage Board finds for the petitioner, under 14A, which appears that there was a determination by the Board that there was an obstruction of a natural surface watercourse alleged in his petition?

Bill Jeffers: Correct.

Joe Harrison Jr.: The removal of the obstruction will promote better drainage of the petitioner's land?

Bill Jeffers: That's correct.

Joe Harrison Jr.: So they found in favor of the petitioner?

Bill Jeffers: Yes, sir.

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Joe Harrison Jr.: The order that came out of this Board was...now let me just tell you what the possibilities are. The Drainage Board shall enter an order directing the respondents to remove the obstruction at their own expense. Was that the order? Or direct the County Surveyor to remove the obstruction at the expense of the respondents?

Bill Jeffers: They directed the respondent to remove the obstruction at his, actually her, expense.

Joe Harrison Jr.: Okay, so you were not directed to go out and remove the obstruction at their expense?

Bill Jeffers: No, sir.

Joe Harrison Jr.: Which I guess would mean the County's expense and then go after them is what my interpretation--

Bill Jeffers: It would be taken out of General Drainage Funds and then reimbursed, if he didn't pay the bill, by going to Circuit or Superior Court to collect.

Joe Harrison Jr.: Okay, now was there a time frame within which to have them, or her, remove the obstruction? Was there a deadline given by this Board?

Bill Jeffers: Not to my recollection. I don't think so, no.

Joe Harrison Jr.: We've got one of two choices. Give a deadline within which to remove it and if it's not done prior to the next Drainage Board meeting date that the County is going to go out and remove it and that person will be billed for the expense. That would to me be in order. To properly notify this person it would have to be a certified letter sent out to this person advising he or she, or she in this instance, of this direction which is pretty much a clarification of a previous order. The other option would be just to direct you to go out and remove it and then go after the respondent.

President Jerrel: Bill, don't you think, I mean, this just not knowing anything about any of this, it would seem to me that we need to put this in writing to Mrs. Tracy to do this by such and such a date or it will be done and the cost will be--

Joe Harrison, Jr.: Yes.

President Jerrel: She'll be assessed the cost.

Joe Harrison Jr.: That is my recommendation. Those are the two options, but that would be my recommendation that you give a deadline and if it's not taken care of, then the Surveyor's Office will go out and move the obstruction pursuant to--

Bill Jeffers: By what physical method would we remove the obstruction?

Joe Harrison Jr.: Well, the statute really doesn't get into that. Direct the County Surveyor to remove the obstruction at the expense of the respondents. So I guess you do whatever

you've got to do. If you have a problem going out on the property you may want to contact the Sheriff's Department to go out there with you. But I think the best thing to do would be to, if this Board so directs an order, would be to give a deadline within which to, and I think Pat is already looking at the calendar there, for her to get this done on her own. If that's not the case she either A, should show up at our next meeting, or B, you're going to be ordered to go out and remove it for her there after.

Bill Jeffers: Now it does specify that the cost of the removal is to come from the Cumulative Drainage Fund or General Drainage Fund.

President Jerrel: The initial cost, but this person, if this has to be done, they will be assessed that amount.

Commissioner Tuley: Basically, I would imagine what we have to do is if we have to pay for it, it will come out of the General Drainage Fund as he says, then we'll pursue them through Small Claims or whatever to--

Bill Jeffers: Well, it tells you how to pursue it.

Joe Harrison Jr.: Yeah, it says in entering an order concerning the removal of an obstruction under this chapter, the Drainage Board may provide for the cost of the removal and the work to be paid directly by one or more of the persons subject to the order or authorize an advance on the General Drain Improvement Fund established in the county under 39-9-27-73 for the payment of the costs of the removal work and provide for the amount advanced to be reimbursed by one or more of the persons subject to the order. Recovery of unpaid costs is the next section, so that means that if, in fact, that would ever happen that you could then go into a court having jurisdiction over that person and seek reimbursement of those funds to go back into that account.

Bill Jeffers: Let's assume that the person is reticent to remove it themselves, his or her self, and you order the County Surveyor to do it with an established fund. Then don't we have to take bids to hire a contractor to perform the work?

Joe Harrison Jr.: Well, I think you need to...I think it might depend on what you're doing. If it's under...I think if it's under five thousand dollars--

Bill Jeffers: If it's anticipated to be under so many dollars per annum, we have another case that's going to take three thousand dollars to do the same thing.

Commissioner Tuley: That other one that we're going to court over?

Bill Jeffers: It took her three thousand to put the dirt in the ditch, it's going to take at least that much to get it back out. She ain't going to do it. She's already told us she's going to go to court.

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Commissioner Tuley: Are they the ones that filed a suit against us?

Bill Jeffers: Yes, they did.

President Jerrel: There needs to be a standardized letter prepared that cites each of these in its legal form and then we can proceed.

Bill Jeffers: Correct.

President Jerrel: And that's an automatic if they don't pay.

Bill Jeffers: This is under a statute where all other work done under this statute is done by contractor.

Joe Harrison Jr.: Again, what I will do is we'll go through here and we'll work with your office and try to come up with, in the Drainage Board, with some policies and procedures that need to be adopted. It's set forth in the statute, but I'm saying some policies and procedures that need to be established in these types of instances. We'll just have to follow them.

Commissioner Mourdock: Given the specifics of this case, I would move that this Board instruct the County Attorney to draft a letter to the Tracys restating the issues from the previous meetings of October and November reciting what this Board's judgement was and giving them notice that thirty days from --

Commissioner Tuley: The 24th of February.

Commissioner Mourdock: --receipt...that by the 24th of February that the obstruction be removed. Failing that, the County will act pursuant to the statute to remove the obstruction.

Commissioner Tuley: I will second that and the 24th being the next Drainage Board meeting.

President Jerrel: So ordered.

Bill Jeffers: Again, I was just throwing out those other thoughts to make sure that, in other words, I have to go to the County Council to make sure there is adequate funds in the Cumulative Drainage Fund or the...is it the General Drainage Fund? Because that generally only carries a couple hundred dollars.

Joe Harrison Jr.: It says the General Drain Improvement Fund. You might--

Bill Jeffers: We generally have a balance of a couple, three hundred dollars.

Joe Harrison Jr.: Charlene might be able to find out from the Auditor's Office how much is in there right now.

Bill Jeffers: The other thing that the attorney may wish to be aware of is that prior to the inclusion of this new bill in Chapter 27, the only other obstruction notice we were ever

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required to forward to a landowner on whose land an obstruction existed was in a regulated drain if an obstruction was identified we'd give them a ten day notice, period. If they didn't remove it in ten days the County Surveyor caused it to be removed and added it to the tax for the following six months tax bill. This statute doesn't allow you to attach it to the tax bill the following year, but I think that giving her a 21 day notice is more than what the previous statute allowed and certainly would be fair notice.

Joe Harrison Jr.: I think we would, as far as notice to this person, if I need to give you a call, Bill, we can get her address. I'm sure it's in the minutes from the November or December meeting, but if we need to get her address--

Bill Jeffers: She's the owner of record of that address. Although her husband is the one who appeared before you, it is Mrs. Tracy that is the owner of record.

Joe Harrison, Jr.: Okay.

Bill Jeffers: So it has to be addressed to her. That's all I have to bring before your Board tonight.

Commissioner Tuley: Question, Bill--

President Jerrel: Okay, excuse me.

Commissioner Tuley: I'm sorry. Carla Benning, whatever I called you about the other day,--

Bill Jeffers: Right.

Commissioner Tuley: Did you get a chance--

Bill Jeffers: I haven't been able to get back in touch with her, so--

Commissioner Tuley: Oh.

Bill Jeffers: I called that number and got an answering machine and left a couple of messages.

Commissioner Tuley: Okay.

Bill Jeffers: That wasn't her business phone number that you gave me, it must have been her home.

Commissioner Tuley: The 476 should have been. She's got an 867 home phone. She should have, at least her neighbors do.

Bill Jeffers: Yeah, she should have an 867 number. Can I get an address somehow and just go out and look at it?

Commissioner Tuley: Yeah, I'll call you tomorrow.

Bill Jeffers: I'll leave a note on her door after I go out and look at it.

President Jerrel: We did move approval for the blue claims.

**New business**

President Jerrel: Is there any new business?

Commissioner Mourdock: Just one item I have. It doesn't involve Bill directly, but one of the issues we talked about again at our first meeting was to see given the number of times during the past year when drainage has been such a contentious issue, I would like to know if there's anyway that the Barrett Law that we talked about earlier tonight for use in a highway situation if Barrett Law can be used as a drainage issue. We've certainly got some areas in the county, one I can think of specifically off Ward Road, where there's a number of people down there who absolutely want to get something done. It's not a big cost item, but it doesn't involve county right-of-way per se and I'd like to perhaps have you report back at the next meeting as to whether or not the Barrett law has any application in that type of issue or any other method you can think of.

Commissioner Tuley: You know I used it, too. The only thing if under Barrett Law if we actually go bond to get that money, what's that do to us in terms of our--

President Jerrel: Overall bond?

Commissioner Tuley: Yes.

President Jerrel: Well, and that would have to be answered.

Joe Harrison Jr.: Yeah, that's an issue, obviously.

Commissioner Mourdock: At least with the drainage issues, if there's good news, it's I think a fairly small dollar amount.

Commissioner Tuley: Oh, yeah.

Commissioner Mourdock: Most of the things we are talking about there, I think, are less than a hundred thousand dollars.

Commissioner Tuley: Everybody, the more we read, and the more we hear Barrett Law, everybody is going to come to us and say well let's do it Barrett Law.

Commissioner Mourdock: That's right. I mean it could be a Pandora's Box, I just want to know if the box has the lid and then do we have the courage to open it?

President Jerrel: This same issue arose through a bill that was being proposed for another authority, economic development authority, airport authority. That was included, that ability to bond. You know, I'm not in favor of that because for the very reason, and neither was the Mayor in favor of it. We asked that be amended out of that bill and I think your point is a good one. We have to be ever mindful of what our actions do in terms of the overall financial health.

Bill Jeffers: I may be totally wrong, but it's always been my

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impression that Barrett Law projects were intended to construct infrastructure that was then accepted by a governmental agency. In other words, streets and then they're accepted by the County Commissioners. Sewers and then they're accepted by the Sewer and Water Utility, where open drainage, I don't believe, will ever be accepted for maintenance by the County Commissioners.

Commissioner Mourdock: You may have a very valid point. The only case I know of where Barrett has been used has been a sewer-type situation. Whether we can even use it under--

Bill Jeffers: You may be able to form a drainage district and then construct--

Commissioner Tuley: There you go, there you go.

Commissioner Mourdock: That's kind of thinking I want to see if we can--

Commissioner Tuley: Joe had the statute a little while ago and had a pretty specific list of things.

Joe Harrison Jr.: Yeah, there are some other uses of the Barrett Law and I'll give you a report back on that. I seem to have lost it now, but there are a number of topics we can use it for.

Commissioner Mourdock: I have no other new items.

President Jerrel: Any other business? You don't have anything else Bill?

Bill Jeffers: No, ma'am.

President Jerrel: Okay, I'll entertain a motion to adjourn.

Commissioner Mourdock: I will so move.

Commissioner Tuley: I will second.

President Jerrel: So ordered.

The meeting was adjourned at 8:31 p.m.

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**THOSE IN ATTENDANCE:**

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Gary Williams  
Charles Bassett  
Others unidentified  
Members of the media

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

Recorded by Charlene Timmons  
Transcribed by Todd Hochstetler

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President Jerrel: I would like to call the Drainage Board meeting to order, please.

**Approval of minutes**

President Jerrel: The first order of business is the approval of the minutes from the January 27th meeting.

Commissioner Mourdock: I'll move approval of the minutes from January 27, 1997.

Commissioner Tuley: I'll second.

President Jerrel: So ordered.

**Replat of Outlot A, Oak Meadow - Phase II**

President Jerrel: The first items include C. Mr. Jeffers, do you want to review some of these beginning with item number one?

Commissioner Mourdock: As you're coming to the microphone, Bill, the minutes...or not the minutes, but the agenda and everything you gave us tonight getting set up for this is superb--

President Jerrel: Very good.

Commissioner Mourdock: --so very much thank you.

President Jerrel: Yeah, it was very easy to follow.

Bill Jeffers: On your desk is the drainage plan for a replat of Outlot A, Oak Meadow, Phase II and a letter from Andy Easley Engineering requesting that the Vanderburgh County Drainage Board reapprove the drainage plans that were originally approved in their final form on May 1, 1995.

President Jerrel: Is there a motion?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

**Slate Creek Subdivision - Preliminary drainage plans**

Bill Jeffers: The second item is Slate Creek Subdivision which as you can see is made up of very large lots from two and a half acres to five acres in size. It is located on St. Wendel Road near Hillview Drive. Generally, and I have the calculations to show the exact figures, but generally when you convert rough pasture and brush and woods into clean lawns with tight turf the resulting runoff is either less than or just slightly greater than it would of been in its rough condition because the tight grass absorbs a lot of the excess runoff from the streets and

the rooftops since the percentage of hard surface is so small on a five acre lot. Mr. Easley has presented us with plans that shows that he is going to install or design for installation a small drop basin on the upstream side of the pipe crossing the road and form a small detention area upstream of the roadway and those details will be worked out in the final drainage plan and the Vanderburgh County Surveyor's recommendation is to approve the preliminary plan as requested by Mr. Easley. He originally requested it with a waiver of any detention requirements and then turned around and gave us enough detention to cover it either way. We're recommending passing the drainage plan as submitted and working the details out in the final plan.

President Jerrel: What's the dimensions of that detention area approximately?

Andy Easley: Want me to help you out?

Bill Jeffers: No, I've got it here. It's one quarter of an acre foot. In other words, he needs to cover one quarter of an acre one foot deep. I think he is showing that he is going to cover it two feet deep maximum, so that would be down to one eighth of an acre which is about 5,000 square feet more or less for a total of 10,000 cubic feet.

President Jerrel: Any other questions? Is there a motion?

Commissioner Mourdock: I'll move preliminary approval for the Slate Creek Subdivision.

Commissioner Tuley: Second.

President Jerrel: So ordered.

### **Kato Subdivision - Preliminary drainage plans**

Bill Jeffers: The next item of business is Kato, K-a-t-o, Subdivision which is located just south of the Warrick County Co-op on St. Joe Avenue and in a business that used to be called, I believe, ChemFarm. What you have is a long narrow subdivision with an interior road coming off of St. Joe Avenue. A tier of lots on the north side and a tier of lots on the south side of the road terminating in a cul-de-sac at the east end of the subdivision. At the southeast corner of the subdivision in the back where the colored up display is, Locust Creek crosses under Indiana Hi-Rail, I believe, railroad and what I have done there is shown the old floodway in pink. Now that there is a railroad bridge there, obviously, that floodway is not going to go over the top of the rail and the engineer, Mr. Savage, has plotted a proposed new floodway which would have to be approved by Indiana Department of Natural Resources and that is shown in green, a green line. The reason I show the old floodway is that he could go ahead and construct part of the detention basin where it is shaded yellow because that is out of the floodway and not under the jurisdiction of DNR. However, if he wants to complete the entire subdivision, he will have to dig a basin larger than that and go down in to the old floodway which is under the jurisdiction of DNR. He has applied for a permit to do this construction work and Indiana Department of Natural

Resources wants to take a little more time to look at their plans before granting the permit. The calculations and the plan that was presented to our office is sufficient and meets the requirements and we're recommending approval of the preliminary drainage plan for Kato Subdivision and telling you that he will be coming back with a final plan when Indiana Department of Natural Resources has examined his plans and issued a permit. At that time we will make a recommendation for the final plan.

Commissioner Mourdock: I'll move approval then of the preliminary plan for the Kato Industrial Subdivision.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: Mr. Savage was here to answer any questions you would have.

Unidentified: Bill, there was an adjoining property owner that wanted to say something. Would this be the time to do that?

President Jerrel: Yes, are there any property owners?

Unidentified: Yeah, relative to the Kato Subdivision--

President Jerrel: You want to come up and give us your name, please for the record?

Bill Jeffers: And less someone think we are jumping the gun, this still has to go to Area Plan Commission for their approval and then come back to this Board for final approval before they can be issued a permit.

Larry Ziegler: My name is Larry Ziegler and I am General Manager for Sysco Corporation which is the adjoining property to the north of the Kato proposed subdivision. I just wanted to say that I have had conversations with Mr. Savage and at this point in time they have kept us informed as to what is going on and that is all we're asking is that we be kept informed.

President Jerrel: We appreciate your--

Larry Ziegler: Thank you.

President Jerrel: Uh-huh.

Bill Jeffers: Mr. Savage is going to inform Sysco Corporation when he gets the Department of Natural Resources permit, so if there is an additional comment by the adjoining property owner he'll know when the next Board meets and will look at that plan.

**Ashley Place - Preliminary drainage plan**

Bill Jeffers: Ashley Subdivision is located immediately east of what would be the extension of Eichoff Road north of Hogue Road out in the USI area. It's proposed to be developed by Mr. Broerman of Three I Engineering. Let me see how I colored it up.

President Jerrel: It's pink and blue.

Bill Jeffers: The detention basin is outlined in pink and it is in the easement for a SIGECO high power transmission line. SIGECO has indicated their agreement for this detention basin so long as the developer follows certain guidelines that they have laid out. It straddles a natural creek. What's being proposed is that as much of the excess storm runoff from the streets as can be piped into the basin will be piped into the basin. The plans in our office show that street system being piped through the basin. Of course, some of the off-site water that naturally comes down through that creek valley will be detained along with the street water and it will be discharged at a rate equal to the ten year storm.

President Jerrel: Any questions?

Bill Jeffers: There still, of course, are some final details that will have to set out on the final drainage plan and as I indicated to one of the adjoining property owners my only main concern would be that the basin not back any water up and adversely affect adjoining property owners. That's what I will be looking at in the review of the final drainage plan specifically is the height of the water not adversely affecting the upstream property owners. Other than that, I think the details can be worked out in the final drainage plan and the Surveyor's Office recommends approval of the preliminary drainage plan for Ashley Place. Mr. Easley is here in the audience if you have any questions of him.

Commissioner Mourdock: Based on the Surveyor's recommendation, I'll move preliminary approval of Ashley Place drainage plan.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Keystone Subdivision, Section V - Preliminary drainage approval**

President Jerrel: I know these people are here to speak about something, but at this point nobody wishes to speak on any of the items that have come before us except Mr. Ziegler?

Bill Jeffers: We're probably getting down to a couple of them that they might want to jump and hold their hand in the air.

President Jerrel: Okay.

Bill Jeffers: Number five is Keystone Subdivision, Section V, which is an extension to the north of what has already been developed as Keystone I, II, III and IV. This would take it up north to Heckel Road. The overall drainage scheme was approved a long time ago, then they are coming to us with large sections one at a time. After we approve the large sections, such as Section V here in front of you, on a preliminary basis they'll come back and split that into phases and ask for final approval on separate phases of what you are looking at now. The first phase will probably be the entrance road off of Heckel that runs along the lake there. That would be the most marketable piece.

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President Jerrel: What's the orange?

Bill Jeffers: Okay, I outlined four lots in orange over on the west line of this subdivision because the western-most boundary of those lots is a earthen dam that the owner of the adjacent property to the west, we'll say it in a nice way, inadvertently placed the dam over on to someone else's property which is now a part of this proposed development. The dam leaks to some extent because it is poorly maintained. It has a growth of trees on it and the developer is trying to work this situation out with the adjacent landowners. There is maybe four persons who own a part of that lake. Four individual property owners involved in that lake. Our concern in the Surveyor's Office, and the one concern that we would like to convey to you, is that those four lots are negatively affected by the condition of that dam. The engineer, Morley & Associates, and the specific engineer being Dave Schminke who is here in the audience, has addressed this problem by designing a toe drain. T-o-e drain. That got put in the minutes years ago as toad drain, remember? Then he picks up all that seepage and runs it down through that pipe that I have outlined in pink, okay? So he has addressed the situation, but it has been our experience that someone may still buy that lot and not be satisfied with the solution that the engineer proposed and we agreed was a good solution. They may want to take it a step further by bringing in a complaint such as, how could you approve something like this? So what we are basically saying is that everything else that is shown on that sheet along with the calculations that were submitted to our office in due time, 15 or 20 days ago, meet with our approval and are just shy of being a complete plan. All he really needs is some street plans to make it a complete plan for final approval. We're just adding the cautionary note that our approval...I mean, our recommendation to you to approve the preliminary plan for Keystone Subdivision, Section V, is qualified by holding those four lots out and not giving them a building permit until such time as we've worked out every possible detail that we can including the possibility of moving that dam over on to the people's property who own the lake. These kind of things are legal. They are not engineering things and that will have to be worked out between the developer and the adjacent landowners.

Commissioner Mourdock: Bill, will the final plan then as you see it now still exclude those four lots? Is that what you are saying to us?

Bill Jeffers: We would like to exclude those four lots up to the point that nothing else could be done beyond what the engineer has shown us. I'm not concerned about it; I'm not even worried about it at all because I know that they are going to come back to you in phases within this overall plat that you are looking at. That up there at that end will be the last phase that they will come to you with or it will be among the last phases that they will come to you with. There will be plenty of time to work that out before they come back to you with a final drainage plan.

Commissioner Mourdock: So what you are saying is that's not included with it now? At some point in the future probably the

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developer would come back with a plan for those four lots, but at that time the issues that you've brought up tonight will have to of been resolved. Is that right?

Bill Jeffers: That's really close to being right. He has presented--

Commissioner Mourdock: That's as close as I usually get!

Bill Jeffers: No, he has presented us with a plan that he thinks will work with that toe drain to pick up all the leakage from that dam.

Commissioner Mourdock: Again, that's not in this present plan?

Bill Jeffers: That's in there. The toe drain and everything. I just don't like approving a plan...I don't like to see a plan approved where an earthen dam is over on a piece of property that is one Homeowners' Association and it actually is a part of a lake and it is the responsibility of owners outside that Association.

Commissioner Mourdock: I understand that problem and I couldn't agree with you more. I am just trying to get to the heart of what we are dealing with.

Bill Jeffers: I would like to see those four lots not get a building permit until all this is worked out.

Commissioner Tuley: So you're wanting approval of the plans with the exception of those four lots?

Bill Jeffers: But they can't zip those four lots out and still have a subdivision.

Commissioner Mourdock: No, but what Pat just said is what you're looking for tonight. You're looking for preliminary approval for the Keystone Subdivision, Section 5, excluding lot, whatever those--

President Jerrel: Four lots adjacent to the earthen dam.

Bill Jeffers: They're numbered there, right.

Commissioner Mourdock: That's what you're looking for?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: Do you have a question, Bettye Lou?

President Jerrel: No, I just...

Bill Jeffers: The developer is here and his engineer is here if they'd like to appeal that particular recommendation that we've made.

President Jerrel: Yeah, let's see, what are the lot numbers of the lots, 119, 120?

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Commissioner Mourdock: And 134 and 135.

President Jerrel: Okay. Is there anyone else who would like to speak to this issue? Yes, sir.

David Schminke: My name is David Schminke, I'm with Morley and Associates. I understand Bill's concerns. I guess my question is if we go this route, will this delay the approval of the primary subdivision itself since we've already submitted the sub with these lots included? If so, I guess I'd like to comment further.

Bill Jeffers: Well, it's not the Surveyor's Office's intent to hold up or to deny approval of the plat. We don't want them to make this area outlots which would confuse the issue at Area Plan Commission. We simply don't want any building permits issued for those four lots until this is resolved as well as it possibly can be resolved. That's all we're really qualifying our recommendation with. Surely something can be worked out between the developer and the adjacent landowners about this dam being in such poor repair. I think that's the only four lots that the condition of the dam will effect. I would just not want to hear from four people out there that they're dissatisfied with their drainage plan. Those are the only four lots that I can see that would be a problem on.

Commissioner Mourdock: Regarding Mr. Schminke's question about the delay through the platting process. Do you have any idea what the impact of cutting these four out from preliminary approval would do? I don't.

Bill Jeffers: It would probably delay it a month or two if they actually cut them out. I'm just asking that they not be issued a building permit.

President Jerrel: I have a question. Is that possible to include that in the motion, that lots 119, 121, 134, and 135 be denied--

David Schminke: I'd like you to consider and keep in mind that we still have to come back for final approval which you've got all the opportunity in the world to shoot this thing down if we don't present a plan that Bill accepts or that you don't feel comfortable with. I assure you that the owner, number one, will want to come up with something that anybody purchasing those lots will feel comfortable with. We feel sure that we can get a solution to this. It's just at this point in time we've not done it. We've not had the opportunity to do it.

Bill Jeffers: Well, that's a very good point and that's something I didn't think of. I'm going to recommend at the final...presentation of the final drainage plan that they not get building permits on those four lots if they haven't resolved the issue and just make the recommendation that they go ahead and approve the preliminary plan as is. I think that would make it more simple for Area Plan.

Commissioner Tuley: That sounds good, I'll so move.

Commissioner Mourdock: I will second.

President Jerrel: So ordered.

Bill Jeffers: Sorry I didn't think of that earlier.

Commissioner Mourdock: The next item on the agenda is the Phoenix Commerce Center and just so everyone is aware, I will be abstaining on that issue. So, if you'd like I will leave the room if any of the remonstrators here would like me to do that.

President Jerrel: Is there someone who wishes to speak?

Bruce Williams: Yes, I'd like to speak to the Keystone issue.

President Jerrel: Oh, alright. Would you want to the microphone, please?

Commissioner Mourdock: Before he does that let's make sure if anybody wants me to leave I will.

President Jerrel: This is still on Keystone.

Commissioner Mourdock: Oh, I'm sorry.

Bruce Williams: My property abuts this Keystone development. I have 6 1/4 acres. The area that I am concerned about is in the northeast corner of this development. In essence, this borders my front yard and as you well know ultimately there will be yards all the way around my property. I am concerned because this northeast corner is often under water as is my entire front yard after any significant rainfall at all. So much so that it extends at least 200 to 300 feet from the road up to my house. I hope as this drainage plan is approved that, again, that one, this ground will not be elevated to the point that will encourage drainage onto my property and if there is going to be backyards that abut my property there, that there be some type of, perhaps, ditch or cut to prevent that water from draining onto my property.

President Jerrel: Would you give us your name and address?

Bruce Williams: My name is Bruce Williams, and my address is 4101 Heckel Road.

President Jerrel: Have you seen...we ask for comments you didn't...when we were discussing the preliminary--

Bruce Williams: I thought you were discussing only the issue of the dam and that does not really concern me.

President Jerrel: No, and you've seen these plans?

Bruce Williams: Yes, I have.

President Jerrel: Okay, do you understand we did give preliminary approval and discussed those and then for final approval we were going to review the progress that's been made?

Bruce Williams: Yes.

President Jerrel: Okay, thank you very much. Anyone else before we move on? Anyone wanting to respond to Mr. Mourdock's request if they chose that he leave the room?

Commissioner Mourdock: Just to say it again, I'll be abstaining from the Phoenix Commerce Center matter and I'll be glad to leave the room if people want me to.

President Jerrel: Okay.

Bill Jeffers: Is your name Dr. Williams?

Bruce Williams: Yes.

Bill Jeffers: Dr. Williams does have a legitimate concern and it's been addressed by our office on a couple of occasions. There is a pocket of water that needs to be drained and we feel that the plans show how it's going to be drained after those lots in that area are elevated sufficiently to build homes on. They have to be elevated two or three feet before a home can be built above the floodplain elevation.

President Jerrel: Okay, thank you.

**Phoenix Commerce Center - Preliminary drainage plan**

*Commissioner Mourdock left the room.*

Bill Jeffers: On the Phoenix Commerce Center, I thought if you all were going to sit together you'd be able to see--

Commissioner Tuley: I won't type on his computer, but I'll move down to his seat.

President Jerrel: I expect you to get typing.

Commissioner Tuley: Yeah.

Bill Jeffers: It's such a big project being what...several hundred acres? The plat may look confusing to you from all the details on there. But what I've done is highlighted the detention basins to show the routing of the water through the detention basins. I'm sure that RQAW has a very professional looking display to put up for you. There's an easel over here. I'm going to turn it over to them. It's complicated simply by the fact that it's so large and has so many different problems to address. So I'll turn this over to Jack Tubbs from RQAW.

President Jerrel: If you'd like to...is there a way you could angle it so that we could see it and the audience could see it also?

Jack Tubbs: For the record my name is Jack Tubbs and I am an employee of Phoenix Land Company. I have asked two gentlemen from RQAW to be here on my behalf to make the presentation to the Commission on behalf of the Drainage Board. I'd like to

introduce Tom Helbing, Vice President of RQAW, and Kurt Faulkner who will be addressing the drainage design issues with RQAW.

Kurt Faulkner: My name is Kurt Faulkner and I with RQAW Consulting Engineers from Indianapolis. Over here we have a layout of the Phoenix Commerce Center. It looks a little different than some of the original plans that you may have seen. I'd like to take just a few minutes to go through the basic drainage concepts for the Commerce Center. I've got a little laser pointer here, let me know if you can't see some of the things that I'm trying to point out. Essentially, the watershed that the Phoenix Commerce Center resides in is about eight square miles. The Phoenix Commerce Center itself is approximately in size maybe two thirds of a square mile. It sits pretty much in the southeast corner of the entire watershed. There are some existing ponds on the Phoenix Commerce Center property. This is an existing pond, this is a pretty significantly large pond. The existing ponds are going to remain throughout the duration of the project. The major drainage way that kind of dissects the property is Blue Grass Creek. Blue Grass Creek runs along Baseline Road and then meanders through the Commerce Center beneath I-164, turns goes south, comes close to I-164 here and then discharges at the southeast corner and it will continue to do that. The requirements for drainage are: we analyze the amount of runoff generated from the Phoenix Commerce Center in a ten year storm existing and then also analyze the amount of storm year runoff in a twenty-five year storm post developed and then store the difference between those two storms within the Commerce Center property. We've achieved that by providing a system, really, of storm drainage retention ponds. We don't have any large significant ponds that would store all of it. We have staged it. The site is really, when you look at drainage systems, divided up primarily into three different ones. The area that I'm circling here would be ones system. The area that I'm circling here would be another system and then the northern system is detained and discharges into Blue Grass Creek. What we're doing with drainage is capturing everything flowing onto the site, bringing it into a series of ponds here, releasing it at a controlled rate into another pond here and releasing it at a controlled rate into another pond here and so on. We've maintained that basic concept all the way through the development, so the end result to the county is an overall reduced amount of drainage post developed than we currently have as the Phoenix Commerce Center is today. I don't know...let me just briefly explain maybe I should have done that for those who may not be aware. The dark blue roads here are proposed roadways for the Phoenix Commerce Center. The yellow lines that you see are existing roads. The red line that you see here is the proposed rail spur off of Indiana Southern. I'd be happy to entertain any questions that anyone might have.

President Jerrel: At this point I don't have a question. Do you have a question?

Commissioner Tuley: Not right now.

President Jerrel: I don't know if there are any questions from anyone in the audience at this point about what you've described

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up to this? Do you want to come up and give us your name?

Rosemary Shortridge: I'm Rosemary Shortridge, I live north of Baseline which would be north of Blue Grass Creek or my property would be directly across from the Kingsman Club if that gives you any better description. I'm not too familiar with his terminologies and stuff, but I don't quite understand. Does he mean he's going to leave Blue Grass Creek just the way it is across from me?

President Jerrel: Do you want to respond to that? Why don't you just stay up there because you may have another question.

Kurt Faulkner: Yes, currently Blue Grass Creek, north of the Phoenix Commerce Center, is not property owned by the Phoenix Commerce Center specifically there by the Kingsman--

Rosemary Shortridge: No, you don't own the Kingsman Club then?

Kurt Faulkner: No, no.

Rosemary Shortridge: Okay, because that is a water problem through there. So you would be south of the Kingsman Club?

Kurt Faulkner: Yeah, actually that's an existing water problem and the only thing that I can offer is that this development will reduce the amount of storm water flow contributing to Blue Grass Creek. So any impact that we might have on the creek there would be of a lesser impact than currently exists there today. But we are not going to be solving that drainage problem now.

Rosemary Shortridge: Then what about across the highway then, that continues, you know, from Blue Grass Creek that would go into that? I forgot where you showed the creek, but that would cross the highway in this area over here? Isn't this 57?

Kurt Faulkner: Yes.

Rosemary Shortridge: Yeah, it would be in this area right over here in that little triangle spot.

Kurt Faulkner: Okay, you're talking about right through here?

Rosemary Shortridge: Yeah.

Kurt Faulkner: Right were Blue Grass...yeah, we'll be improving Blue Grass Creek in this area.

Rosemary Shortridge: Okay, thank you.

President Jerrel: Is there anyone else that has a question? Yes, sir? Do you want to come up and give your name and address?

David Ziliak: I'm David Ziliak and we've got ground south of it. Now where you're talking about improving that drainage is not that rail going to be a dam to hold the water out of that low ground? That red?

Kurt Faulkner: Are you talking about a dam to this area here?

David Ziliak: Yeah, well that whole red...ain't that going to be the railroad you said?

Kurt Faulkner: Yes.

David Ziliak: Isn't that going to be a dam to keep the water from going in that flat then?

Kurt Faulkner: From going in here?

David Ziliak: Yeah, on that flat area.

Kurt Faulkner: That's an issue that we'll be looking at in the final analysis--

David Ziliak: What's your...you should tell it. I mean, you not going to take the water, the incoming water, the way it sounds that's coming there flooding that ground right now. It's raising five or six foot in there and backing out slow and you're not going to catch the water the way it sounds, you're going to dam it off. Are you not?

Kurt Faulkner: Well, it's not the intent to create any kind of an adverse impact on adjacent property owners. We still have a good bit of design to do in the final analysis. The preliminary design is not such that we would expect to cause an adverse--

David Ziliak: Are you planning on handling that water the way it is in other words? That will not be a dam?

Kurt Faulkner: Pardon? Yeah, we would...rather than create a damming situation here we can put culverts beneath the railroad.

David Ziliak: Yeah, but that ain't going to let water in as fast as...it's open field now, water goes across there just--

Unidentified: Lickety split.

David Ziliak: I mean it almost crosses 57 at times. We're talking ten foot deep.

Kurt Faulkner: Sure, but when that happens, you know, that surge of water is going to come down and the majority of the water will flow very quickly through Blue Grass, there's no question about that.

David Ziliak: Well?

Kurt Faulkner: But the backup here can be controlled with culverts in this area here.

David Ziliak: We're not worrying about the flow, we worrying about the capability of the water that holds right now when it rains, I mean, it gets deep out there.

Rosemary Shortridge: May I? I want to say something, too. The area that I was talking about that is right up in here, that's

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a bottle neck right there. Are you guys planning on clearing that and straightening it so, you know, the water from my end can come down straight through?

Kurt Faulkner: We're planning on improving Blue Grass Creek within Phoenix Commerce Center property.

David Ziliak: It means they're not proposing to do nothing on the outlet end or clean it or nothing to let water out down there.

Kurt Faulkner: Along Baseline?

David Ziliak: No, County line.

Rosemary Shortridge: No, down further.

Kurt Faulkner: Oh, down here.

David Ziliak: To the east all the out the other end.

Rosemary Shortridge: Whatever you straighten up toward my end is going to go straight down to his end.

President Jerrel: Do you want to move over just a little closer to the mike so that...you can distinguish the voices can't you?

Kurt Faulkner: I'd simply like to sat that right now this is...you know, if I were to draw a line and then show you the watershed I'd have to go up to the ceiling and come on around. There's an existing surge of water created in this area along Baseline Road. There is absolutely nothing that this project can do to solve that problem. That's an existing problem. All we can do is design Blue Grass Creek within the Phoenix Commerce Center to handle that and to not create any additional problem along Blue Grass. We...this project cannot solve that surge of water or that problem created by Blue Grass Creek right now north of the Phoenix Commerce Center. We are reducing the amount of flow off of the property which is really all we can do in the Commerce Center.

David Ziliak: Yeah, but are you going to take the water that it is taking now? We ain't worrying about reducing the flow off, we're worried about you taking as much as you're taking now.

Kurt Faulkner: Yes. Yes.

Rosemary Shortridge: There's a lot of water that comes through there.

David Ziliak: I mean where you're proposing that railroad that water gets deep.

Rosemary Shortridge: We had a record water flow this last spring.

David Ziliak: You are planning on building that up with dirt?

Kurt Faulkner: Well, we have minimum...we have flood protection

grades for each of the manufacturing facilities. You're talking primarily of these parcels in this area. The intention is to build the building pad up to keep those areas out of flooding and then to, again, control storm drainage, storm water, within these ponds here to help reduce the impact north of the Commerce Center.

David Ziliak: How much is...go down here to where your woods is across the highway, now is that wet lands? Can you guys clear that?

Kurt Faulkner: No, that--

David Ziliak: You'll never be able to touch none of that or what?

Kurt Faulkner: That's a pretty significant wet land area that we don't intend on touching at all.

David Faulkner: So you ain't going to improve the creek down there at all then?

Kurt Faulkner: Well, actually I guess you could say that we would improve the situation in that we will be reducing the amount of flow currently flowing through here by providing storm drainage all over the Commerce Center. We're not physically going to be excavating in this area, but we will be reducing the impact by the project.

Rosemary Shortridge: So you're going to be reducing the water through the ground process, not through the grade process?

Kurt Faulkner: Correct, we would be reducing the flow coming off the Phoenix Commerce Center property by controlling it in storm retention ponds.

Rosemary Shortridge: Good luck.

President Jerrel: Are there any other questions? Is this discussion this evening that you've heard helpful to also recognize the concerns of the adjacent neighbors?

Kurt Faulkner: Yes, it's very helpful.

Commissioner Tuley: Bill, the concern of the railroad spur is a pretty good question because it looks like if we slow the water down in the upper left of this map it may have an adverse effect on these people, yet--

President Jerrel: See where we're talking about up there at the upper part?

Commissioner Tuley: On here it's got a --

Bill Jeffers: I'm fairly familiar with it.

President Jerrel: Okay.

Bill Jeffers: That lot up there is Lot 9 and the flood

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protection grade for Lot 9 is given in the chart over there to the right.

President Jerrel: I've got two lots marked...oh, okay. But what we're talking about is right here.

Bill Jeffers: Uh-huh. There are areas out there in Lot 9 and the lot above it, but anyway, that are as low as 391. So, what Mr. Ziliak is asking the developer's engineer is there's this huge rush of water that came down from the highlands up around Seven Hills Road there's a huge rush of water that came out of those six or seven acres, or six or seven square miles, excuse me, and there's 640 acres in every square mile, and it came down through the Blue Grass Valley...the Blue Grass Creek Valley and it came down across the Kingsman Club, and, according to witnesses went through the building a couple of feet deep on the floor. That building is sitting around 399 and it couldn't get under...this is this spring now, it couldn't get under 57 fast enough because that old bridge was built years ago and it's not adequate to pass a hundred year flood which we had two or three of them this spring. Also, all those woodlands and farm ground and whatever up there had a lot of what we call forest litter which was anything from twigs and leaves up to logs and trees and that came down and stuffed itself up into that 57 bridge then the water, and we've discussed this with the developer's engineer and it was transmitted to him in a letter of which the Drainage Board got a copy last month, then that water that couldn't get through the bridge came down along 57 to the south to a low point which is about at this location right here which is the old creek channel. That's an ancient creek channel, by the way, and the elevation of the roadway there is given at about, I think, 398. I'm not sure about that, but that's in the letter that we transmitted to the developer and the water went across 57. We don't know exactly how deep, but I'm sure high water testimony from honest folks in the neighborhood would tell you it was at least a foot deep. So, our recommendation to the engineer for this development was to establish some flood protection grades that are realistic for all this area up in here. Otherwise, his factories and parking lots are going to be under water. Now Mr. Ziliak said eight or ten feet of water. I haven't verified that yet, but I don't doubt him.

David Ziliak: What's the pad height on that north lot? How high are they supposed to put that building?

Bill Jeffers: They've got 395 on the map. I'm not sure that's going to high enough.

David Ziliak: What's the road? What's the highway?

Bill Jeffers: I think the high point in the road is around 393.

David Ziliak: So they are proposing to be higher than 57?

Bill Jeffers: Well sure, you don't want the factory to flood. So what Ms. Shortridge and Mr. Ziliak, is that your name sir, Ziliak? What they're asking is not only is this railway, not only does that represent a dam so to speak, but the whole development is filling in a floodplain. It is filling in a

floodplain which will displace a certain volume of water that historically has stored itself there and until it can find its way through this restricted opening under 57 and then it slowly finds its way on downstream and I'm guessing maybe Mr. Ziliak owns some ground in Warrick County.

David Ziliak: No, we're south of it.

Bill Jeffers: In Warrick County?

David Ziliak: Actually, they're going to help us.

Bill Jeffers: Are you in Warrick County also?

David Ziliak: No, not there but further down we are, yeah.

Bill Jeffers: I mean, I was guessing from his questions that he's wondering whether this area up here which has historically served as a holding area for a huge volume of water, he's asking, I believe, if I've interpreted him correctly, when that's filled in that water is going to have to go over 57 or through 57 and immediately down through an improved channel to a certain point and how far is that going to be improved and how fast is that going to get onto him? The truth is this railway spur without any culverts underneath it would represent a dam, if you want to call it a dam. With culverts underneath it, the culverts would act as equalizing tubes. In other words, when the water starts piling up on this side of the dam it will shoot through there and equalize over here. But the truth is eventually if this development comes to pass, all of this area will be filled because who wants three feet of water in their Toyota when it's parked out there in that factory. It's just not going to happen. They're going to build those parking lots sufficient that someone working an eight hour shift is not going to get caught in a storm with their car under water and the factory floor is not going to be under water. So, yes, all this water that would be in this floodplain--

Commissioner Tuley: Is going where?

Bill Jeffers: --is going to be displaced or the volume that could be stored there will be displaced. It will just have to store itself out in the rest of the floodplain that's not filled yet. As Mrs. Shortridge just said, like over in her property, true. For the rest of my comments, I'll say that the Indiana State statutes do not prohibit filling in a floodplain. The local floodplain management ordinance does not prohibit filling in a floodplain. The only guideline is that if the displacement of that water would cause an increase in height of the hundred year flood greater than one tenth of a foot on adjacent properties, then it would be prohibited. Those calculations have to be made by, probably, the Indiana Department of Natural Resources again. We don't make those calculations, we don't make those determinations. Here at the county level what we do is we look for areas that are in the floodway and say you have got to have a DNR permit to operate in a floodplain. As far as filling in a floodplain, if this Board if it's your pleasure, it would have to go in front of...before approval of a final plan if you wanted to go in front of the Floodway Management

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Committee. There is a Floodway Management Ordinance in Vanderburgh County. There is a standing committee called the Floodplain Management Committee with representatives of the Area Plan Commission, the Building Commissioner, the Surveyor, the County Engineer and others. But there is nothing that prohibits filling in a floodplain as long as it meets the state guidelines. So, I cannot make a recommendation at this time not to approve a plan simply based on the fact that they're filling in a floodplain because this happens, as you know, all over town especially on the east side. We have approved many plans that fill in a floodplain inside the city and out in the county jurisdiction.

President Jerrel: But the floodway is something...?

Bill Jeffers: The floodway is something else again and there has to be a determination made of what the extent of the floodway is. But that's not what Mr. Ziliak or Mrs. Shortridge is in any way concerned about because the floodway would probably be less than, I'm going to guess, but I'd say it would be less than 500 feet wide. What they're concerned about is like an 80 acre area that traditionally floods and stores water. That's way outside the confines of the floodway. That's out in what they call the floodway fringe or the floodplain. It does have to get away and until it does get away it stores itself in natural low areas. If you fill in this low area that volume of water will find a place to store somewhere else. If it raises the entire...if it raises the elevation of that water greater than a tenth of a foot over that entire floodplain for that creek, then some federal regulations kick in.

Keith Reiter: What's it going to do--

President Jerrel: Do you want to give us your name?

Keith Reiter: Keith Reiter, 6101 E. Baseline. Underneath 57 where it stopped up last time, is that going to flood 57...if it floods her land is it going to flood the state highway there?

Bill Jeffers: Well, it did last time and it will again. Yes.

Keith Reiter: Well, I mean is it going to be flooded more often then?

Bill Jeffers: Any time you get a rain storm of the three types...of the three storms we experienced, any thing like that, last spring it will flood 57, yes.

Keith Reiter: Okay, those were outstanding rains that we had, but by taking this, I don't know...200 acres? How many acres are we talking about here?

Bill Jeffers: Right now we're probably talking about 70 to 80 acres.

Keith Reiter: Okay, 70 acres. Is it going to take a lot less rain to create this problem? If we do create that problem and we've got 2,200 workers getting off work here that they're proposing to have that many workers, is that going to create

a...?

Bill Jeffers: Well, they might want to build a pretty good size break room in case that would happen to hold them until they...something like that only lasts an hour or two.

Keith Reiter: Yeah, but are we asking for that to happen at 3:00 in the afternoon when the buses are traveling and they're getting off work, the buses are traveling, we've got high water...

Bill Jeffers: Well, I understand your concern Mr. Reiter, and--

Keith Reiter: Those are just some things, I mean, are they going to back up more on 57 or is the county going to put a bigger drain underneath the highway there?

Bill Jeffers: The county cannot put a bigger drain under a state highway and it would be up to the state to do that. That would be the answer to that question. As far as...I never thought I'd see things like I saw last spring, but I saw them three times in two months. So I'm sure I'll see it again, I hope I live long enough to see it again.

Commissioner Tuley: I hope I don't--

Bill Jeffers: Yes, it will flood 57 and it might raise it...if exactly the same thing happened as what happened April 9, 1996, it may be an inch or two deeper. I couldn't tell you without seeing a very extensive hydrologic study done. Those kind of questions I can't answer and I don't think anyone can answer until they do a very extensive study. I will say though that what happened on April 9, 1996, came very close to matching exactly what the Corps of Engineers said would happen if it rained that hard. We got the data of how hard it rained from the National Weather Service and compared it to the Corps of Engineers study of Little Pigeon Creek and it came within a few inches of matching the height of the water that they said would occur. So the kind of hydrologic studies that are done by the Corps of Engineers, DNR and RQAW is using the same formulas, they could tell you how high that water would get within a few inches.

Kurt Faulkner: I'd like to clarify a couple of issues. First of all, the preliminary drainage analysis that we have done primarily approaches how the Phoenix Commerce Center will impact the adjacent area. This is the preliminary stage. The final stage is to analyze how the other area, the rest of the watershed, impacts Phoenix Commerce Center and the specific things that we need to do in the drainage system in Phoenix to help control that and not to make that condition any worse. One of the areas that we'll be looking at in the final stage is providing a holding area here, kind of east of Blue Grass Creek and west of I-164 and south of Baseline to control a pretty significant volume of water that may potentially be backing up here. I think one of the problems in some of the discussion that we need to be careful with is actually talking about volumes of water in terms of huge and so forth. In the final analysis we'll be doing a pretty comprehensive drainage analysis of Blue

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Grass Creek taking a look at the existing cross-sectional area of the creek, what it can handle, the behaviors of Blue Grass Creek on up the watershed. Now we have contacted the Indiana Department of Natural Resources and the Indiana Department of Natural Resources really does not have jurisdiction here according to Mr. George Bowman who is head of the stream permit section. In Indiana when you're developing in a rural area the watershed needs to exceed 50 square miles and this watershed is eight square miles. So the only authority over Blue Grass Creek in this case would be the County. We thoroughly intend in the final stage to analyze completely the characteristics of Blue Grass Creek and what impact we'll have on adjacent property by the development of the Phoenix Commerce Center.

President Jerrel: It might help if you had the names and addresses of the individuals that spoke this evening because there needs to be interaction. Obviously this evening they've raised some concerns that need to be addressed. Since this is a preliminary hearing they...I mean, I hope...you could get them from the minutes, but it seems to me with the people here we need to get their names and addresses and phone numbers before they leave.

Jack Tubbs: For the record, I would like to say that we have interviewed the Kingsman Club to try to establish a high water mark with respect to the flooding that occurred this past spring. According to the Kingsman Club, they have stated to me personally on two different occasions that the highest that the water reached was at the threshold to the, I think, it was the east entrance of the Kingsman Club. They were telling me that they had been out there periodically to, of course, protect their investment out there. As of right now that is the best available information we have from the adjacent property owners, but we're welcome to any other people who have some eyewitness accounts as far as how high the water approached on poles or sides of buildings or something like that to try to help and verify and give us a good feeling of how high that water was out there.

President Jerrel: Well, again, I think it would be helpful if you would get the names and addresses of the individuals that were here.

Kurt Faulkner: Thank you, I might add that we'll be sticking around after the close of the meeting. If anyone would like to come up and give us their name and so forth, we'd be happy to do that.

President Jerrel: Is there anyone else who would like to speak to this issue? The chair is open for a motion.

Commissioner Tuley: What I'd like to do is just share with everybody here, including the developers and their engineers, the comments that came to this Board from the Surveyor's office.

"Due to the complexity of the huge development area, preliminary plan lacks specific details that must appear on final drainage plans. Large areas within

proposed development are severely impacted by floodway, floodplain, wetlands, etc. Existing bridge structures represent obstructions of floodwater from heavier storms."

There is a sentence in here about IDNR, but I'll leave that out based on your comments.

"The County Surveyor is recommending approval of preliminary drainage plan with many reservations. Recommendations, including encouragement to developer to phase final street and drainage plans. Final drainage plans for areas not severely impacted should be submitted first if time line is short."

Fair warning, this is comments...with those words I'll move for preliminary approval subject to the comments and the recommendation of the Surveyor's office.

President Jerrel: I'll second that motion and so order. Do you have a comment now?

Bill Jeffers: Yes, just with regard to the comments from our office that Mr. Tuley read in. What I was saying is that, I'm sure they understood, but for the audience's benefit, that the developer come back with final plans, say for example, in the southwest corner of the development where the land is high and the ground is solid, there aren't any mining shafts. Well, there's a few, but they can be worked around, there's no flooding problem and go with that as Phase 1 and get started and be of a benefit to our community because we do welcome good economic development and industrial development is need in our community for jobs. I feel that a drainage plan can be developed quickly that would have all the details necessary to protect their investment in roads, infrastructure and buildings and stay away from some of the areas for a while that are more severely impacted. Leave them out of that first phase is what I'm saying there and it'll go a lot quicker. Now as far as DNR and the comments about DNR. All I can tell you is every time I ever call up there they tell me any stream with a watershed of one square mile or more has a floodway. I haven't had anyone tell me otherwise who works for DNR. I avoid... I've always avoided whenever possible any contact with an agency which takes six months or more to get a permit from. So it's not like I'm hunting for trouble.

Commissioner Tuley: I understand.

Bill Jeffers: But I've been told over and over again when these things come up that they have jurisdiction whenever there is a square mile. If I'm wrong and if they're wrong, I'm happy to hear about it.

Kurt Faulkner: Let me clarify one thing, Bill. You're not wrong in one sense, according to Department of Natural Resources in an urban area if the watershed is one square mile or greater, then they do have jurisdiction. In a rural area the criteria is 50 square miles.

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Bill Jeffers: I'll clarify that with the people I talk to at DNR when I talk to them. Traditionally County Surveyors and DNR are not real thick. I only call them when I have to.

President Jerrel: We'd like to keep this map if that's alright so that we can have it in the office? I'm going to give it to Mr. Greubel, so that if we have people come up and want to inquire, anyone that lives or has any suggestions, we'll have it on hand.

Commissioner Tuley: So everybody understands that was preliminary approval?

President Jerrel: Preliminary.

President Jerrel: Okay, we're ready to move to Willow Creek. Tony, would you want to see if Mr. Mourdock would come back in?

*Commissioner Mourdock returned to the meeting.*

Unidentified: Have you covered Spring Park yet?

Bill Jeffers: That was mistakenly put on the agenda.

Unidentified: You're kidding. We've been here two and a half hours. We got a letter. It was a certified letter.

Unidentified: We got a certified letter telling us to be here at 6:00.

Bill Jeffers: Okay. It will probably be on the agenda next month which would be March 24th. It won't be going to the Planning Commission March 5th.

Unidentified: It will not?

Bill Jeffers: It will not.

President Jerrel: How did that happen?

Commissioner Mourdock: I don't know. I've never had that happen before.

Unidentified: Will we get a certified letter again?

Bill Jeffers: You can call the County Surveyor's Office and ask for Bill.

President Jerrel: May I see what you're talking about? I don't know anything other than just...I mean, we apologize, I don't have any idea what it is that you're referring to.

Unidentified: It's on the agenda. It's on the door outside.

Unidentified: It's on the door also out there.

President Jerrel: Yeah, right.

Commissioner Tuley: Yeah, it is on our copy here.

President Jerrel: But Andy Easley...why would he be sending out...I mean, he's doing the public notice?

Bill Jeffers: The Area Plan Commission now requires the developer or his engineer to mail certified letters not only notifying adjacent land owners to their hearing, like on March 5th in this case where it was scheduled to be on the agenda March 5th, they also require them to include the information that it's going to Drainage Board on Monday, February 24th.

Commissioner Mourdock: So does this mean, Bill, that it's not going to be on the Area Plan either?

Bill Jeffers: No, it will no be on Area Plan because he did not get drainage approval tonight because he failed to get the plans in time for review. If Area Plan Commission makes them notify--

President Jerrel: I apologize for this.

Commissioner Mourdock: We apologize very much. We didn't realize.

President Jerrel: We didn't have any idea.

Unidentified: It's on the door.

Commissioner Mourdock: Yeah, but we didn't know it had been withdrawn.

Unidentified: Oh, I see.

Commissioner Mourdock: That's our point, we didn't know that either until this moment.

President Jerrel: We didn't know, I'm so sorry. I know, because I'm tired, that this wasn't what you wanted to do with your evening.

Unidentified: She's got a sick child at home.

President Jerrel: Oh, well, we're so sorry.

Commissioner Mourdock: We apologize.

Unidentified: Now we really don't know for sure about next month.

President Jerrel: What we need to do, we need to have some direction. If it's going to be on the agenda--

Bill Jeffers: Well, if you'd like to leave your names and phone numbers I'll notify those who were here.

Unidentified: That was one of my concerns that we had such short notice. We only had two business days. The letter came Friday. We have some neighbors that are engineers who are on a cruise and so they're not here because they're not even in town.

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Bill Jeffers: Well, so much the better. They'll be here next month.

Unidentified: If you notify them, but if not. If you just notify the people who were here tonight...

Bill Jeffers: Okay, what I'm telling you is it's not our office's responsibility to notify you, but I'll be happy to do so if you'll leave your names and phone numbers.

Joe Harrison, Jr.: Bill, what they...as far as the Area Plan is concerned I would think that they're going to have to do it over again. I mean--

Bill Jeffers: They don't do that. I haven't seen--

Joe Harrison, Jr.: Easley sent this letter out, right?

Bill Jeffers: Right.

Commissioner Mourdock: I don't think you're saying the same thing. You're not suggesting--

Bill Jeffers: Oh, I know what you're talking about.

Commissioner Mourdock: -- you're not suggesting, Bill, that APC is going to hear this before it comes through the Drainage Board on a preliminary basis, are you?

Bill Jeffers: No, I will notify APC tomorrow that it did not get Drainage Board approval and it will be withdrawn from their agenda.

Joe Harrison, Jr.: I'm assuming Andy Easley will send out another letter--

Commissioner Tuley: A new letter.

Joe Harrison, Jr.: --notifying everyone saying--

Bill Jeffers: I'm not sure that he's required to do that.

Joe Harrison, Jr.: Well, I thought you just said that they adopted a new procedure where they're notifying --

Bill Jeffers: To notify of Drainage Board hearings, they never notified of Drainage Board hearings before 1997.

Unidentified: They're notifying us of the wrong meeting now?

Joe Harrison, Jr.: No, it would not count. They're going have to do this over again.

Bill Jeffers: No, I'm not sure they have to do that.

Joe Harrison, Jr.: Well, I'll talk to them and make sure they do it, okay?

Commissioner Mourdock: Again, please make sure you--

Bill Jeffers: You would be surprised what you can do.

Commissioner Mourdock: Again, we apologize to everybody. It doesn't make you feel any better to hear us say it's not our fault, but it's not our fault.

Joe Harrison, Jr.: Do you have Easley's letter?

Commissioner Tuley: We supposedly have it, but you sure couldn't tell it tonight.

Joe Harrison, Jr.: I want one of those letters.

President Jerrel: Could we make a copy of one of your letters?

Unidentified: Sure.

President Jerrel: Okay, just let me make a quick copy.

**Tape change**

**Public comments**

President Jerrel: The next item on the agenda is identified as public comments.

Bill Jeffers: No, we've got Willow Creek.

President Jerrel: Willow Creek. The agenda doesn't follow. Okay, final drainage plans Willow Creek.

Bill Jeffers: Oh, I see what you're saying there. Okay, my agenda is different. If you want public comments that's fine.

President Jerrel: Okay, well, that's what I'm ready for is public comments.

Bill Jeffers: Well I'm sorry, I was looking at...

President Jerrel: Yes, sir. If you would please come up and give us your name and address.

Kevin Korff: My name is Kevin Korff, I live at 3530 Voigt Road.

President Jerrel: Is it, Kevin, is it K-O-R-F-F?

Kevin Korff: Yes, two F's. Richard and Patrick were out at our place last spring when we had those horrible rains, when we had all of that flooding. Our neighborhood has kind of dropped the ball and we haven't been back here...down here to make sure everyone understands. I've had some time to look and think about the place down there, too. Our biggest concern was the fellow across the street from me, the ditch that we talked about that needed to be cleaned out. I'm working on him. I understand there is supposed to be that legislation that has been passed, the rat on the neighbor legislation, that's what I've heard it nicknamed anyway. I'm not going to go to that

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point yet because I haven't given him a fair chance, but what I really want to talk about was the ditches along Voigt Road that start at the top of Oak Hill up by Oak Hill Road. Those ditches have filled in and need to be cleaned out. I was wondering what we would have to do to get some action to a --

President Jerrel: Ditches on which, what's the name of the..?

Kevin Korff: Voigt, V-O-I-G-T.

Commissioner Mourdock: The drainage ways you're talking about are in the County, to the best of your knowledge, in the County easements on either side of Voigt Road?

Kevin Korff: Yes, definitely.

Commissioner Tuley: Where we ran into a problem is where you talked about where it cuts back and goes through private property. He's trying to solve that aspect by --

Kevin Korff: Right, I'm working with Mr. Howard on that, to try to do something.

President Jerrel: What about the drainage, you know, the contract that we have to clean drains, are any of these included? Or is this something we do?

Commissioner Tuley: This wasn't a legal drain.

President Jerrel: Not a legal drain.

Commissioner Mourdock: I think probably our best option here is to see where that is on the overall County drainage along with Milton Hayden's discussion--

President Jerrel: The prioritizing.

Commissioner Mourdock: -- from the prior meeting, yeah, and look at it from the point of view of drainage ways also have him take a look at that.

Kevin Korff: My thinking that perhaps if those drains along Voigt Road, starting at the top up there by Oak Hill, if those were opened up and deeper and wider than they are now it might give us a little more storage time before...give it time to feed out the fellow's ditch that he hasn't opened up yet. We sure would appreciate it.

Commissioner Tuley: Yeah, it's been a while. I'm glad you're here because we had kind of forgotten about that. We would have until the first rain.

Kevin Korff: That's okay. We haven't been down here to remind you and that's our fault. We should take more of an interest and I'm sorry I've tried to round up some more folks from down there and no one...

Commissioner Tuley: They were all there the night we were there, so we know everybody's heart is in the right place.

We'll try and get it done.

Kevin Korff: We would really like...I mean, we understand we had a lot of rain this spring, perhaps we're hoping that won't happen again, but it might give us a little more holding time if those ditches...I mean, they are just level along the road there.

President Jerrel: Well, one thing, I do think we need to put this in writing to the Garage rather than just a telephone call put it in writing.

Commissioner Mourdock: Let me go back up in my minutes here, I've made several notes during the Commission meeting to pass some things on to Milton, so let me add those to it.

President Jerrel: Okay.

Commissioner Mourdock: That would be the easy way.

Kevin Korff: I'll probably be back next month to see what you guys came up with. Thanks for your time.

President Jerrel: Alright, thank you very much.

Commissioner Tuley: Honestly, I don't mean this sarcastically, but there's a lady that's been here, not month after month, but every two months to check on us, to remind us we said we'd do this--

Kevin Korff: Oh, really?

Commissioner Tuley: She's getting everything done that she wants done. Maybe not as fast as she wants it, but she is getting it because she's making it--

Kevin Korff: Oh that lady from...

Commissioner Mourdock: Hillsdale.

Kevin Korff: Yes, I ran into her on the way in. She had nothing but good things to say about you.

Commissioner Tuley: Well, she's been up every month to remind us what we're supposed to do, so that helps.

Bill Jeffers: She or one of the other two presidents.

Commissioner Tuley: Huh?

Bill Jeffers: She or one of the other two presidents.

Kevin Korff: She had nothing but good things to say about her...she was bragging on her bridge she was going to get and all this other stuff.

Commissioner Tuley: My whole point of that was she has been very persistent and if we say we'll have something to report to you in February, she's back here in February. So she kind of

pushes us along and I'm just encouraging you guys to just, as you said, be back next month.

Kevin Korff: I will.

Commissioner Tuley: That's a good idea.

Kevin Korff: That's March 24th, is that what we said?

Commissioner Tuley: Really you could come any Monday night.

Kevin Korff: Well, the Drainage Board meeting--

Commissioner Tuley: It really wouldn't have to be a Drainage Board meeting, not as long as it's just cleaning out a road way ditch. Any Monday night that works for you.

Kevin Korff: Okay, alright.

President Jerrel: Thank you, Mr. Korff.

Kevin Korff: No trouble at all, thank you.

President Jerrel: Okay, moving on, County Surveyor. I have included a letter which I'm going to pass on to you from Mr. Jones and we're also going to send it to Mr. Stoll.

Bill Jeffers: I've spoke with Mr. Jones twice today and he indicated his intention to come attend your road meeting where he will be asking you to improve Lyle Road. I don't think it's a drainage issue.

President Jerrel: No.

Commissioner Mourdock: That's correct.

Bill Jeffers: It's a road construction issue.

**Willow Creek, Section E - Final drainage plans**

President Jerrel: Okay, we're ready for--

Bill Jeffers: Final drainage plans for Willow Creek are up there on the desk folded up.

President Jerrel: Alright, is there--

Bill Jeffers: There's a representative of the developer who is the engineer, Mr. Rodney Young, who drew the plans. There are some details that need to be added to the final plat prior to its recording to include some easements that either are unclear to me or just need to be delineated a certain way so I understand exactly where the drainage easement stops and the public utility easement begins. Nothing major, the plan meets our requirements. The Surveyor's office is recommending approval of the final plan and when he submits the plat for recording I will be checking against the notations I've made on that drawing which is not a plat. That drawing there is a drainage plan, it is not a plat. So I will be checking my

notations there against his final plat drawing.

Commissioner Mourdock: But you are recommending for approval?

Bill Jeffers: Approval of the plan, yes.

President Jerrel: Alright is there a motion to that effect?

Commissioner Tuley: No one here to speak to it?

President Jerrel: No unless there's somebody...is there somebody behind the podium?

Commissioner Tuley: No, okay, I'll move for approval.

Commissioner Mourdock: Second.

President Jerrel: So ordered. Pat is enjoying the meeting. She thought she stay and listen to everything else.

#### **Maasberg Road - Bridge plans**

Bill Jeffers: The bridge plans for Maasberg Road are complete. Our office did not have time to review them and Mr. Stoll says he doesn't presently have funding in that account sufficient, so he agreed to let us have another month.

President Jerrel: Withdraw this?

Bill Jeffers: Yes, ma'am.

#### **1997 Drainage Maintenance Specifications**

Bill Jeffers: Okay, the drainage specifications have an error in them in that I have listed Mr. Mourdock as President of the Drainage Board and Mrs. Jerrel as Vice President.

Commissioner Tuley: She don't mind.

Commissioner Mourdock: Hey!

Commissioner Tuley: I didn't say he, I said she.

Commissioner Mourdock: I was born at night, but not last night.

Bill Jeffers: The only reason that makes any difference is I'm asking you to sign this Notice to Bidders tonight and I guess we'll just have to --

President Jerrel: Change it.

Bill Jeffers: -- scratch through there because this copy doesn't appear in the newspaper anyway. They print they're own type set up. So here's the original copy with the signature page on top. As I've stated I have the President and Vice President backwards.

Commissioner Mourdock: So at this point you simply need

approval of the '97 Drain Maintenance Specifications?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: So moved.

Bill Jeffers: And permission to...or for the Auditor to advertise that on, I think, I gave the dates--

Commissioner Tuley: February 28th --

Bill Jeffers: Which would be Friday.

Commissioner Tuley: -- and March 14th, with openings on March the 24th.

Commissioner Mourdock: I'll move then acceptance of the plans... of the specs and with publication on the stated dates.

President Jerrel: Is there a second?

Commissioner Tuley: Second.

President Jerrel: So ordered.

#### **Presentation of Blue Claims for payment**

Bill Jeffers: The Surveyor's office last item of business is the blue claims for some maintenance that's been completed which have been signed by the Surveyor and the necessary paperwork is attached also signed by the Surveyor. They come with the recommendation to pay the claim.

Commissioner Mourdock: I'll move approval of the blue claims as submitted and recommended.

Commissioner Tuley: I'll second.

President Jerrel: So ordered. Mr. Harrison? Joe, wake up. Do you want to have Mr. Jeffers look at this document that you prepared for us? This is just some procedures--

Joe Harrison, Jr.: I've given it to him.

President Jerrel: Okay, so he does have it? Alright.

Bill Jeffers: I appreciate that effort because that's something we had tried to work on and just didn't find time to finish. I'm sure it's been done extremely professionally now.

Joe Harrison, Jr.: Well, we don't know about that.

President Jerrel: Well ,we just wanted to make sure that...and I'm going to pass this down to --

Commissioner Mourdock: Would it be appropriate when you get calls to your office about the rat on your neighbor law, as it was earlier referred to, to hand that out?

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Joe Harrison, Jr.: Why don't we let Mr. Jeffers look at it and if it comes to that point, yes. There are some, for instance, there's a possibility that the Board may want to require a filing fee in connection with the filing of a petition regarding an obstruction. You know, if that's something the Board chooses to do at some point, that would be added to this. It may be that we can change this around a little bit to make it be even shorter referenced that says things you must do if you wish to file a petition and we can make it even smaller and pull out the relevant portions in here. A lot of this stuff is basically for you all and for Mr. Jeffers, but certainly I think a how to file a petition and this is the nuts and bolts of it type of letter or type of handout would be advised.

Commissioner Mourdock: Mechanically, to do the filing fee what would need to be required of this Board to do that? Would we have to put that out as part of a public hearing or can we just vote to do that?

Joe Harrison, Jr.: I would do it in the form of...to be honest with you, I would do it in an ordinance because I think it needs to be published. If that's something you all want to do we can draft an ordinance, very small, saying that in connection with the filing of petitions for obstruction pursuant to this statute that the fee will be whatever it is. You'll have a hearing on it and it could be done...we could do it between now and the next Drainage Board meeting if that is something that you all wish to consider. The Drainage Board would be the one that would pass that particular ordinance.

Commissioner Mourdock: Well, we've had several people, as you know, come before us under that law and I think in at least one of the cases I don't see that if you had a \$250 filing fee that it ever would have gotten to us. Perhaps neither of them would have. I've gotten enough calls on this that I really worry that the Surveyor's office could be spending a lot of time chasing some of these things down. We're already in a situation where one of them that we have, we're now getting to the how do we enforce it phase. We ran to be Commissioners. None of us ran to be judges and let's face it, that's what we're being made to be is a judge. I think if we're going to do that we need to do it on a pretty selective basis and I think having some sort of filing fee would make it more selective.

Bill Jeffers: You also remember that there's very little money in the General Drainage Improvement Fund.

Commissioner Mourdock: Right.

Bill Jeffers: Where the filing fee would go into that fund to offset your cost. If a filing fee were prohibitive to petty actions it might also be within the intent that the law had to include the provision for a filing fee. I mean, I believe the way I read the law, is what I'm saying, the way I read the law is it seems as if the lawmakers put the provision for a filing fee in there --

Commissioner Tuley: To keep the petty ones out.

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Bill Jeffers: -- specifically to keep the petty ones out, where the more important ones it would be worth a filing fee to pursue it.

Joe Harrison, Jr.: If you all wish to do this, again, it would be an ordinance to be considered by the Drainage Board, which is the Commissioners, and I think the appropriate time would be at the next Drainage Board meeting when it could be considered. If you want to throw out a figure that you want to agree on or if you want to wait another month that's fine. But if there's a figure you wish to consider I think the appropriate forum for that would be during a Drainage Board meeting.

Bill Jeffers: Just glancing at it, the only thing I see that I might like to see added is that because the statute requires the petitioner to first request the owner of the land with the obstruction to remove it and because, and the only reason I'm saying this is because several people have come to me wanting to file a petition--

Joe Harrison, Jr.: Without asking?

Bill Jeffers: --and I've said hey, have you asked the man to remove the obstruction? Oh, I can't talk to him. Well, you gotta. So we need proof that they have.

President Jerrel: So it has to be something in writing preferably?

Bill Jeffers: I would like to see something in writing, you know, Dear Mr. Jones, would you please move the dirt out of the water way, you know with an address and everything.

Commissioner Mourdock: Are you saying that should accompany the filing fee?

Bill Jeffers: Accompany the petition, I believe.

Joe Harrison, Jr.: Yeah, that should be a prerequisite for filing the petition, should be the fact that they prove that they have already done that.

Bill Jeffers: Yeah, proof of request.

President Jerrel: Well, again, I made this suggestion on another issue, but I think it would work here, too. We need a step one, two, three so people know what to do.

Joe Harrison, Jr.: Right, and we could have a sheet and you could also probably have a form letter that's Dear \_\_\_\_\_, please remove \_\_\_\_\_.

Bill Jeffers: Right, we're going to have to do that because one of the fellows has told me, well, I'm sorry, and I hate to admit it, but I'm not very good at reading and writing and would come show me how to write that letter. You know, he's a very elderly gentleman and he has a legitimate beef and just can't produce the letter himself.

Joe Harrison, Jr.: What I'll do is, maybe you and I can come up with a letter that you think--

Bill Jeffers: Fill in the blanks.

Joe Harrison, Jr.: Fill in the blanks, and we can talk about it. That's something that you can just have in-house.

Bill Jeffers: Did you get a fax that I sent you? Did you get a fax that was several pages?

Joe Harrison, Jr.: Oh, about some comments?

Bill Jeffers: Yeah, just some general comments.

Joe Harrison, Jr.: Yes.

Bill Jeffers: Because I forgot to include a cover sheet on that with your name on it so--

Joe Harrison, Jr.: Was that a couple weeks ago?

Bill Jeffers: Yeah, two or three weeks ago.

Joe Harrison, Jr.: I think I did.

Bill Jeffers: I was going to send you another one with a cover sheet if you didn't.

Joe Harrison, Jr.: Why don't you do that, if you don't mind.

Bill Jeffers: Okay.

Commissioner Tuley: Joe, one of the concerns you had with an earlier one was the action of the time, so I think what we want to do is establish that this office is the one that receives it. Tony, you will have a check off list. If, in fact, all that is met you will file date it, copy it and then you will submit it immediately to his office because the time, according to Joe, starts clicking the day it actually receives our file stamp.

Bill Jeffers: Right, that's a catch right there. It's going to put the quickies on you because I might get it tomorrow morning and that already adds thirty days to the process and then you only have sixty days to do something.

Commissioner Tuley: Right, I think that's why if he has that checked off yes, everything is here and then he file marks it only then and then submits it to you.

Bill Jeffers: We know how fast everything gets done in county government, so sixty days is plenty of time.

Joe Harrison, Jr.: As far as a filing fee, is that something you all want to consider?

Commissioner Mourdock: I think it's --

Commissioner Tuley: I think we better get something going, I

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don't think we want to wait another month.

Commissioner Mourdock: I think we ought to try to do it before the wet season gets here.

Commissioner Tuley: Right.

President Jerrel: Well, how do you make a determination on something like that? What would prevent minor things, but not be exorbitant?

Bill Jeffers: Is there a guideline in there as to a high limit?

Joe Harrison, Jr.: I didn't see anything. You know, to file a lawsuit in a court, in Superior Court, is \$100 now.

Commissioner Tuley: Yeah, I think that we ought to make it appropriate enough that...the whole idea is to keep the frivolous things out of here, but we cannot make it so high that it is cost prohibitive for, you know, someone who has got a legitimate problem to come in. So. I don't know if you want to make it \$100 or \$150?

Bill Jeffers: Well let's say someone has a legitimate grounds for petition and they file with a \$100 fee and you rule in the favor of the petitioner and order the respondent to remove the obstruction. Should the petitioner be reimbursed his filing fee?

Joe Harrison, Jr.: This is what the filing fee statute says, it says:

"The Drainage Board may require as a condition of filing a petition under this chapter the payment of a filing fee. The Drainage Board may not set the filing fee at an amount greater than is reasonably necessary to defray the expenses incurred by the Board in processing a petition."

Bill Jeffers: Which would be \$35 a day times three right off the bat plus some postage. Then you may have to appear in court.

Joe Harrison, Jr.: It says in processing a petition.

Commissioner Mourdock: I'll move, given those numbers, that we adopt a \$100 filing fee for the petitions under the drainage law.

Commissioner Tuley: Second. Is there any provision for what he talked about though?

President Jerrel: Wait a minute. Before we--

Joe Harrison, Jr.: What this would be, I think it would be a recommendation to be set forth in an ordinance.

President Jerrel: Right, I was going to say we are not voting now to make that final.

Commissioner Tuley: Oh, no, no.

President Jerrel: This is a recommendation. So ordered.

Commissioner Mourdock: Coming back to Bill's comment about possibly having that as a refundable item. My personal feeling is, I don't think we should do that because, in fact, those monies may, in fact, be the ones we end up using to clean out some of this.

Bill Jeffers: It's a paltry amount.

Commissioner Mourdock: Right.

Bill Jeffers: You may have to, if your prediction is right, you may have to have special meetings just as hearings which would cost the County \$105 right there on the spot.

Commissioner Mourdock: Lovely thought.

Commissioner Tuley: You're right. One more meeting.

President Jerrel: Okay, is there anything else?

Bill Jeffers: I have nothing else, madam.

Joe Harrison, Jr.: The only thing I wanted to...Mr. Jeffers and I spoke about the letter to Ms. Tracy--

Bill Jeffers: Right.

Joe Harrison, Jr.: --that I was asked to send out regarding the last Drainage Board meeting concerning an obstruction. Apparently, Mr. Jeffers, is my understanding, has heard from somebody?

Bill Jeffers: Mr. Bassett, who's the petitioner, called me this afternoon and said Mr. Tracy moved some dirt around recently and the situation may be worse for him than it was before. Judging from the wetness of the season I would say that's a possibility. I'm going to go out tomorrow and see what it looks like and I'm going to talk to Mr. Tracy like I promised him I would and try one more time to work it out. If we can't work it out, I suppose the Board will have to order the Surveyor to remove the obstruction at your next meeting.

Charlene Timmons: Can I ask a question?

Commissioner Mourdock: Sure.

Charlene Timmons: At the next Drainage Board meeting we're going to vote on the ordinance?

President Jerrel: No.

Charlene Timmons: We're just going to see the ordinance?

Joe Harrison, Jr.: No, the ordinance will be advertised and it will be considered.

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Charlene Timmons: Then I probably need permission to advertise.

Joe Harrison, Jr.: Okay. That's on the filing fee.

Commissioner Mourdock: Yes, my question is how...we won't be seeing that ordinance until the...well, you'll get it to us some time before the next meeting--

Joe Harrison, Jr.: Yeah.

Commissioner Mourdock: -- and then we'll be voting on that and, basically, it will be the first reading for the ordinance?

Joe Harrison, Jr.: Yes, and if it is unanimously passed we won't have to have a second reading, but if it's not then we'll have to have two readings.

President Jerrel: Right, okay is there a motion to advertise?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

Charlene Timmons: I have one more question.

Joe Harrison, Jr.: But it will have a provision for two readings if, in fact, we have to have two readings.

Charlene Timmons: This probably doesn't have anything to do with me, but will that fee be filed in the Commissioner's office, the Surveyor's office or the Auditor's office?

Joe Harrison, Jr.: Well, it will be filed with the Commissioner's office, but the money is going down to your office.

Commissioner Tuley: Quietused in.

Charlene Timmons: Just curious.

Joe Harrison, Jr.: Into the--

Bill Jeffers: Existing General Drainage Improvement Fund. There's an account.

Charlene Timmons: Yeah, I looked for it.

Bill Jeffers: Was there any money in it?

Charlene Timmons: I found a Miscellaneous Ditch Fund and it was \$230.96.

Bill Jeffers: That's the one I believe, yeah. It's where all of the sluff goes, like if you close out an account and there's some money in it, it goes there. That kind of thing.

Charlene Timmons: Yeah.

Bill Jeffers: But now they have a use for it under this statute.

Joe Harrison, Jr.: There might be a separate fund for this Obstruction Fund. There's, by statute, there was a new fund that was created. It may not be a line item yet, but a --

Charlene Timmons: I don't think it has been created yet.

Joe Harrison, Jr.: Okay.

President Jerrel: Okay, now you don't get any of this back? Do you need that back?

Bill Jeffers: I don't need anything back. This signature sheet when it is fully signed with the Auditor's name we run copies of it.

President Jerrel: So everything else you get?

Joe Harrison, Jr.: Mr. Jeffers, you will inform us at the next meeting on your investigation of the Tracy situation?

Bill Jeffers: Right, I'm going to go there tomorrow and initiate that and then I'll report to the Board at the next meeting on Mr. Tracy.

Commissioner Tuley: It just dawned on me about that Phoenix. You might want to remind them they can go slow because I won't be here on the 24th of March and you'll be out of the room. There won't be any real need to bring anything here next month.

Bill Jeffers: Yippee!

President Jerrel: It's just me Bill.

Bill Jeffers: They have a prime piece of ground to develop.

President Jerrel: Yes.

Bill Jeffers: Then they have some stuff that's going to take a whole lot of dirt, just like your buddy.

Commissioner Tuley: Move to adjourn.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

Meeting was adjourned at 8:50 p.m.

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**Those in attendance:**

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Tony Greubel  
Larry Ziegler  
David Schminke  
Bruce Williams  
Jack Tubbs  
Kurt Faulkner  
Rosemary Shortridge  
David Ziliak  
Keith Reiter  
Kevin Korff  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
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President Jerrel: We'll call to order the Vanderburgh County Drainage Board.

**Approval of minutes**

President Jerrel: The first item on the agenda is the approval of minutes.

Commissioner Mourdock: I'll move approval of the minutes of the February 24, 1997 Drainage Board meeting.

President Jerrel: I will second and so order.

**Ordinance establishing a filing fee in connection with a petition - First reading**

President Jerrel: The next item is the first reading of a Vanderburgh County ordinance establishing a filing fee in connection with the filing of petition under I.C. 36-9-27.4-1. Do you want to speak to that?

Joe Harrison, Jr.: I will just quickly read it. This was advertised and published in the paper. This will be our first reading. The second reading will be in the next couple of weeks. I'll read it:

"WHEREAS, the Vanderburgh County Drainage Board (the "Drainage Board") is composed of the three (3) duly-elected members of the Board of Commissioners of Vanderburgh County;

WHEREAS, I.C. 36-9-27.4-1, et seq. governs what action the Drainage Board may take with respect to Petitions filed with the Drainage Board relating to the removal of an obstruction from a drain or natural surface watercourse;

WHEREAS, pursuant to I.C. 36-9-27.4-11, the Drainage Board may require a petitioner to pay a filing fee in connection with the filing of a petition for removal of an obstruction under I.C. 36-9-27.4-1, et seq.;

WHEREAS, a One Hundred Dollar (\$100.00) filing fee payable to Vanderburgh County shall accompany a petition which is filed with the Drainage Board pursuant to I.C. 36-9-27.4-1, et seq.

BE IT HEREBY ORDAINED by the Drainage Board as follows:

SECTION 1. That I.C. 36-9-27.4-1, et seq. governs what action the Drainage Board may take with respect to petitions filed with the Drainage Board concerning the removal of an obstruction from a drain or natural surface watercourse.

SECTION 2. That pursuant to I.C. 36-9-27.4-11, a \$100.00 filing fee shall be paid to Vanderburgh County by a Petitioner who files a petition with the Drainage

Board seeking the removal of an obstruction under I.C. 36-9-27.4-1, et seq. Such filing fee shall be submitted to the Drainage Board located in Room 305, Civic Center Complex in Evansville, Indiana at the time of the filing of the Petition.

This ordinance shall be in full force and effect on and after the date that it is adopted by a majority vote of the Drainage Board."

Commissioner Mourdock: With that reading in the record, I would move on first reading approval of the Vanderburgh County ordinance to establish a filing fee in connection with the quoted state law.

President Jerrel: I will second and so order.

Commissioner Mourdock: If I may jump from the schedule for a second, in case there is anyone here as a remonstrator to the Spring Park Subdivision that is on our agenda, but I understand the petitioners on that have asked to defer that so it will not be dealt with tonight. So if there is anyone here waiting for that one we'll let you leave early.

**Open bids - Annual maintenance bids for regulated drains**

President Jerrel: The next item is number four, the legal counsel to read the bids into the record.

Joe Harrison, Jr.: Technically, I think, we'll open the bids regarding the annual and additional maintenance to regulated drains. Is this correct, Mr. Jeffers? This is the annual procedure and these are the bids that have been submitted for the work in connection with those matters?

Bill Jeffers: That's correct. We've advertised for bids twice in the paper the proper number of days between each bid being...or each invitation being in the paper and we've waited the designated number of days for the bids to be presented...brought into the Auditor's Office and they have brought them up here and presented them to you. The Board generally authorizes the attorney to open those bids and then number four should be placed down about right in front of number twelve. I have it up too high.

Joe Harrison, Jr.: Okay.

Bill Jeffers: Because it will take the counsel some time to read through them and see if they are in order.

Commissioner Mourdock: At this time, I'll move the opening of the bids for the annual maintenance of drainage ways within the county.

President Jerrel: I will second and so order. Then he'll report, is that correct?

Bill Jeffers: Yes, ma'am.

President Jerrel: Okay.

**Bob Bell - Anthony Drive**

President Jerrel: Number five, is Mr. Bell here to address the Board? Okay.

Bob Bell: My name is Bob Bell. I live at 2500 Anthony Drive. Why I have asked to be put on the agenda tonight was to go back over the past year and see if we can get some information on where our Drainage Board program is going in our neighborhood? There are three of us here from the neighborhood. Two of us would like to have a say and try and get some guidance from the Council or Commission on what is going to be done. I think our first big concern is the fact that we've been hit by terrible, terrible flooding, but here now we're going to turn around and our spring rains aren't even here yet, you know, so it is not going to get any better for us. What we're looking for is a little bit of where we stand. Which direction are we going to go? Do we have a plan implemented towards correcting our problems out there and if so what that plan might be? I know Mr. Jeffers has talked to us in detail about it and has been very, very nice to try and explain to us what direction they were going to go. There was some work done on the west side of Ward Road last year.

Commissioner Mourdock: Did that help in any way, Bob?

Bob Bell: Personally, I was trying to think of a nice...thank you for that. I was trying to think of a nice way to say that. I don't think that we accomplished what Mr. Jeffers explained to me that we were trying to do. I don't know how to say this and say it nicely. I'm not trying to be crude and I am not a professional by no means, but the work that was constructed out there and what was done on the west side of Ward Road to carry the water off of Ward Road trying to maintain it on the west side and take it down to St. George Road, the project has not been completed, but on the other hand what has been done doesn't even seem to be able to collect the water if the system was totally finished. The drain height is considerably higher than the edge of the road, so if you are out there during a big pour down it seems to run between the money that the county spent and the edge of the road and it still does what it always did. As far as water getting into these outlets that they put there or in these new drainage pipes, it's not a workable situation. Now, in their defense maybe it's not complete. I don't know. I would think that portion of it would be close to being complete and it sure doesn't look like it is going to be much help. Our question that I have and would like to have answered, is what do we actually have implemented? There has been talk around the neighborhood so much that everybody is in total awe about what are we doing, you know. Some of us feel like there are simpler ways to approach it with the county not spending near the money by taking the pressure off of Anthony Drive and also taking the water down to St. George Road on the east side of the road and putting it down there in the proper ditches getting those opened back up and getting it on down to Pigeon Creek where it belongs rather than routing it through neighborhoods of about 20 or 25 houses. My proposal, of course, it would be my proposal is that the drainage on the east side of Ward Road runs behind my home and then between my house and my neighbors home and onto Anthony Drive and on down the street. If that two pieces of property and that ditch was diverted to

stay on the east side of the road, then the ditching from Anthony Drive to St. George Road is already there. It is already in existence. The only real problem or bottleneck that comes up in my eyes as a common neighbor would be that the drain at St. George Road and Ward Road is stopped up, caved in or it has a problem there to where it has to flood out over the street. It cannot run into the drain like it is supposed to be. From what I understand, by keeping it on the west side of the road by the time you get down to Ward Road and St. George Road, the church sits there, for a lack of knowing exactly what to call it they put in a large pump station there. I'm not sure how they are going to get around that. The water that is detained on the east side of the road there, at those first set of about six homes, is already in a ditch program that is a workable situation. If the water was taken from behind...and we won't correct, I want this understood and I understand it, by changing the ditch that runs behind my house and directing it on down it will only take a portion of what water will be there. We will always have run-off water. We'll always have to use the ditch behind my house. Presently we are receiving all of it down behind my house between the two and out and down Anthony Drive. Now the effort that Mr. Jeffers and his office wanted to do by catching it on the west side of Ward Road was to eliminate...we were talking 45 to 50% of the water probably would be a big help to our problem. Not a solved situation, but a great big help. In that direction that would have been fine, but after we went out there and went through those people's yard and did what we did to this point there was a total stop on the program and I don't know where we stand from that point. I would like to know what we've got to look forward to. Mr. Garrett is here this evening. He has also got some things he'd like to say.

Dave Garrett: Dave Garrett with Oak Ridge Subdivision. We did quite a bit of work last year with Bill Morpew of the County Highway Department. I understand he has since left the county's employment and I would like to try to spend some time this evening to reconcile the original scope of the project, the current status of the project, and some leadership we feel we need as Bob alluded to earlier. The scope of the project as described by Bill Morpew was that on Ward Road we would have open ditching on both sides from Dusseldorf Road south all the way to St. George. On Anthony Drive we would have open ditching on both sides to get the water off the road and into the ditches. Now, the qualifier that Bill had placed on Anthony Drive was that the Anthony Drive portion won't be done until the, as I have called here, Garrett/Rucker ditch is resolved. That is a ditch that runs behind my home and Myron Rucker's house. The idea was we were going to do Ward Road first on both sides from Dusseldorf south all the way to St. George, as Bob said, we'll do Anthony Drive second after that is done on both sides to get the water off the road and into the ditches, but we won't do Anthony Drive until we get that ditch resolved behind mine and Myron's house. Since this project was begun last fall on Ward Road there has been partial completion of open ditching on both the west and the east sides. Really, the key thing that, at least in my mind, we hope to accomplish up on Ward Road was to take care of a particularly problematic area that is the...I phrase it here as the Halcomb/McDonald matter just to cite the homeowners that live in front of that. What that really is, is a situation, and I've got actually a separate handout here that we will get into later, but the water that Bob

Bell is talking about that is flooding his house plus the other homes on the north side of Anthony Drive it's a function of this water that is otherwise running down the east side of Ward Road and has been diverted to run back behind the homes, so we'll see a separate sheet here in just a second on that. That has not been addressed at all. On Anthony Drive the County Engineer's Office has done some amount of work. I'm not quite sure what that is. I believe it is probably just shooting some elevations. No ditching work has been started yet and, again, the ditch behind my home and Myron Rucker's home is not yet resolved. I've got a letter here that we'll go over in a second from Sitecon. Given that original scope of the project plus the current status of things that were accomplished last fall the things that we feel are leadership and direction that we need from the County Commissioners are on Ward Road simply getting back to the completion of the original scope of the project. In other words, taking the partial completion that has already been done on both sides of Ward Road and finishing that off. In other words, getting back to the idea of let's start at Dusseldorf and let's go all the way south to St. George on both sides of the roads and to take that water down to St. George and I believe the idea was to send it on down to the legal drain there, Hitch-Peters. Secondly, the specific attention item for tonight and one I think or hope to get in some detail is the Halcomb/McDonald matter. As Bob said, with spring arriving we have homeowners on the north side of Anthony that are certainly going to be subjected to additional flooding if the rains come in as we expect. Finally we're here this evening to talk about some closure on the ditch behind our homes and ask for the county engineer to potentially take a look at these Sitecon findings and then look at an alternate plan to send all the water down to St. George. That's just a high level summary of the scope and the current status. If we could maybe turn the page, unless there are questions on the front sheet, and talk about this Halcomb/McDonald matter.

President Jerrel: I would like to ask Mr. Jeffers a question. Does our new drainage ordinance in any way, can it be used to impact upon these issues?

Bill Jeffers: No, ma'am.

President Jerrel: It can't be in regard to the McDonald/Ward Road issue?

Commissioner Mourdock: I'm not sure you're saying the same thing. Are you talking about the new state law as far as one individual blocking drainage on another?

President Jerrel: Yes.

Commissioner Mourdock: Okay, I don't think that is what Bill heard you say.

Bill Jeffers: I'm sorry. I thought you meant the 1994 County Drainage Ordinance.

President Jerrel: No, no.

Bill Jeffers: The new statute?

President Jerrel: Yes.

Bill Jeffers: It may be if it were interpreted...if a ditch within a highway right-of-way were interpreted as a mutual drain, yes, but I doubt that would be proper legal definition of a mutual drain.

President Jerrel: The fact that a person does not have a pipe under, you know, to permit the water to flow. Our new drainage ordinance will not address that?

Bill Jeffers: I believe what we have come to understand over the period of time that we've looked at this situation is that the original intent of the developer of Anthony Acres was to take the water...to divert it at Mr. McDonald's house and take it along the north line of Anthony Acres and then run it between Mr. Bell and Mr. Savage's house in an open ditch. That is the way it was originally constructed.

President Jerrel: So you're saying that there is...we have no recourse regarding the McDonald's driveway pipe? I mean, in other words we can't say to him you must have a pipe under your driveway to allow the water to flow?

Commissioner Mourdock: On the second page there, item number one you'll see that, as I read that anyway, Mr. McDonald is claiming that at one time the county authorized him to put in the driveway without a ditch. Is that your understanding, Bill?

Bill Jeffers: I'm not aware of that authorization.

Commissioner Mourdock: At least that is what Mr. McDonald is claiming according to Mr. Garrett.

President Jerrel: My question was if that constitutes an obstruction to the free flow of the water?

Bill Jeffers: No more so than what other people have done to fill natural or man-made watercourses from that point downhill.

President Jerrel: Okay.

Commissioner Mourdock: We're coming to the crux of the problem here, Bettye Lou, that I've sat through for probably, I'm going to guess, the four times that Mr. Garrett, Mr. Rucker and Mr. Bell have been here as far as it is a bit of a legal tug-of-war as to if the new law applies as Bill has referred to it in other meetings, the "rat on your neighbor law". If it does apply, or rather it doesn't, may be somewhat dependent on whether or not the language "natural watercourse", which is in the law, is necessarily pertinent here. Again, I don't read it per se here, but it is my understanding that Mr. McDonald...is he here tonight by chance?

Dave Garrett: I'm sure he's not. One thing I might want to interject is that I don't necessary...the concept of ratting on your neighbor is not our intent and I really don't feel that we have to resort to that type of maneuver.

Commissioner Mourdock: I didn't say that is what you were doing. I'm saying that is what the law has been referred to.

Dave Garrett: I understand and I guess what I am saying is we have talked to Mr. McDonald and, again, he says I've got a

letter that says I didn't have to put this pipe underneath my driveway. I don't mind if somebody does that, but I'm not going to pay for it and I don't want open channel in my yard. The Highway Department last fall advised us that the homeowner doesn't really have the right to say that they won't accept open channels in their yards, so certainly if that is within the county's easement and it is a need to have drainage to keep the water off the road, which is the case up there, they can go ahead and create an open channel. With respect to the pipe under his driveway the county also advised, the Highway Department, the county can't pay for the cost of the pipe under the driveway, but they can dig up the driveway, install the pipe and repour the concrete. We have homeowners in the area that will pass the hat and pay for the approximately \$140 for the section of pipe under the driveway. I think what we really need is just some leadership from the Commission that would say, okay, if you have some private funds to come together to get one 20 foot section of 12 inch double wall PVC, the homeowners pay for that and the county can pay to dig up his driveway and install that purchased pipe and refill it in with concrete and then the county can open channel it. We've also had confirmation from--

Commissioner Mourdock: Excuse me.

Dave Garrett: Yes.

Commissioner Mourdock: Slow down here a little. Open channel which part? The part that runs from west to east back behind Mr. Bell's house, is that what you are talking about?

Dave Garrett: No.

Bob Bell: Right in front of McDonald's home is where he is saying an open ditch. It's on the edge of the driveway which seems to be the problem.

Commissioner Mourdock: To the south?

Bob Bell: All to the south.

Dave Garrett: All to the south, yes.

Commissioner Mourdock: Past the driveway to the south?

Dave Garrett: That's exactly right.

Commissioner Mourdock: Okay, thank you. Bill, is it your recollection, do you know, is all that within the county right-of-way? It depends on where you put it right?

Bill Jeffers: What they're describing is within...no, I'm not even going to say that because Mr. McDonald's house is not part of a subdivision, it is a parcel. It is not a part of Anthony Acres. It is an independent parcel and if his deed says right-of-way record then we have to prove what the right-of-way width is because it is not on a plat. I don't know what the ancient right-of-way for Ward Road was that would apply to parcels not in a subdivision. I would like to interject that a 12 inch pipe is not what the county would recommend at that location.

Commissioner Mourdock: That was going to be my next question. Do you...the \$140 figure, I think, is going to be extremely low once you start looking at what that pipe should be sized to be. Do you have--

Bill Jeffers: The county installed, I believe, either a 15 or an 18 inch pipe several hundred feet uphill at Knob Hill Drive.

Commissioner Mourdock: What size pipe?

Bill Jeffers: Either a 15 or an 18.

Commissioner Mourdock: Actually, there were two of them weren't there?

Bill Jeffers: There was a clay tile that existed there that was put in by the developer of Knob Hill and then when the county extended that pipe so that the turning radius could be made more gradual they put an aluminum piece on the end of it which I believe is either a 15 inch or 18 inch piece of pipe. That could be verified in the field.

Commissioner Mourdock: Do you have any rule of thumb estimate of what a piece of 18 inch pipe would cost?

Bill Jeffers: No, I don't.

Commissioner Mourdock: The point of the question is, Mr. Bell and Mr. Garrett, if, in fact, instead of \$140 it's \$750 how deep is your hat?

Dave Garrett: We'll do the same thing. We'll get the money.

Bill Jeffers: I would like to caution the Council or the Commissioners before they make a decision that if water...if this water that both Mr. Bell and Mr. Garrett are speaking of carrying all the way down to St. George Road is, in fact, all carried down to St. George Road you're going to create a nightmare for yourself replacing pipes all the way down to St. George Road because none of the pipes from Anthony Drive south to St. George Road are sized big enough to take the amount of water that these gentlemen are proposing you take down to St. George Road. That water historically did not go down to St. George Road, it went down Anthony Drive. I would like to also say that if Mr. McDonald's so called or alleged filling of a ditch is to be considered an obstruction by the Commissioners, whether they rule that or not, I would like to also say that what is good for the goose is good for the gander. Nine out of ten homes on Anthony Drive have filled their ditches. Some with pipes underneath them, some without. The ones with pipes are too small of a pipe. The ones without pipes just cause the water to blow up out of the ground and run down the middle of the pavement. Anthony Drive used to have open ditches on both sides, so if one person is guilty of creating an obstruction then there is a couple dozen more that you are going to have to look at on down Anthony Drive.

Bob Bell: Can I butt in before you start back? I think probably what I would like to say as we go on here because I feel like it is very important, this is not just a water problem for Bob Bell. It is a water problem for, like Bill just said, Anthony Drive. That is the reason why I wanted to butt in. The reason

why I am so upset is our large rains that we had last year cost me \$20,000 worth of damage to my house because of the direction of water flow. In that, since I have gotten to talk to any of you folks again, we've lost all of our homeowners insurance and everything and barely could get the house insured. We have spent in excess of \$5,000 to handle the water once it gets to Bob Bell's house through a new sump pump system and some other things. What's good for the goose is good for the gander. He said it. He also has told me numerous times that water should come down Anthony Drive. I am one of those people. I have tiles in my front yard that I would think would be the right size. If they want to come down there and tell me I have to dig them up, go for it, okay? I would like, if this doesn't go any farther, for everybody else that is in to doing what's been done in that neighborhood for the last 40 years...a good example is the gentleman that sits on the corner of Ward Road and Anthony Drive. He wanted to put in a new driveway which cost him a blooming fortune. It's absolutely gorgeous. It really helped the looks of the neighborhood. I went up there before they started and I told him that we had been coming down here to Drainage Board meetings and to be sure what you do so they don't come up here and dig your driveway up. He says, I have called downtown. I have got my permits and they have told me what I had to put underneath my driveway. Now that we've been out there surveying spending all this time trying to do it properly, whoever he talked to that piece of pipe as he just said is not going to be right. This was done a year ago. We just keep building these animals. He is saying that we get to a situation to where, evidently, when you call down here and get a permit to put a tile underneath your driveway, put a tile under your driveway whether it is a six inch piece of PVC or what.

President Jerrel: I have a question. Who would...what office would be telling that, Bill? When you get the permit would that be Building Commissioner?

Bill Jeffers: The only office who can issue a driveway permit is the County Engineer's office. They are the office that designates the pipe size.

President Jerrel: So that would be where this information...?

Bill Jeffers: Yes, if, in fact, the person has a driveway permit. A legitimate one.

Commissioner Mourdock: Let me just play this all the way through. The hydrology that they would look at to size that pipe would be based on the traditional flow, right? What you're saying is it should be flowing back behind Mr. Bell's place anyway, so the hydrology that they would be basing that on wouldn't include what we are now suggesting would be done which would move all that water down?

Bill Jeffers: Theoretically, but I've had people in the neighborhood tell me that they've called down here at a certain year which was long ago and a particular Commissioner said, oh, put a 12 inch pipe underneath there that ought to be big enough. Right straight out of a County Commissioner's mouth. I suppose that man would come up here and say the same thing at the microphone. He told me that a dozen times. The situation is much more complicated than it is being presented.

Commissioner Mourdock: Bill,--

Bill Jeffers: Much more complicated.

Commissioner Mourdock: --yeah, I agree with that statement. I know it is, but that doesn't end the problem. I mean, for two years I've heard this discussion, or I guess almost two years. What do we have as far as alternatives? Bettye Lou hates it when I do this, but on one alternative we can do nothing and let the situation continue on and the other alternative is to go out there with a backhoe and work with everybody, meaning the county go out there and work with every landowner and put the ditch in for them. Now, neither one of those do I see as acceptable. In one we haven't solved anything and to the other extreme we've done things we obviously can't begin to do.

Bill Jeffers: Well, the alternative is to stop doing it politically and do it correctly.

Commissioner Mourdock: Tell us what to do.

Bill Jeffers: Up until now it has been done politically.

Commissioner Mourdock: Okay, well there we go. Now you've said the magic word. Tell us what we should do.

Bill Jeffers: I've told you all along.

Commissioner Mourdock: Well, refresh my memory.

President Jerrel: Well, you've never told me because I haven't been here long enough to find out.

Commissioner Mourdock: Lock, load and fire, Bill. Go for it!

Bill Jeffers: Okay. The County Surveyor's Office has said every time they've been asked for the past two or three years that all the water coming out of Melody Hills downhill to Ward Road from the west must be kept on the west side of Ward Road. Is there anyone here that would contest that is what the County Surveyor's Office has said every time they've been asked?

President Jerrel: Okay, and the introduction by Mr. Bell suggested, though I gather it is unfinished and for obvious reasons we've had lots of bad weather, but they say what's on the west side of Ward Road is not correct. Now do you agree or disagree?

Bill Jeffers: They are right. What the County Highway Department, did rather than capturing all the water that comes down Melody Hills to the west right-of-way of Ward Road, and I don't care how they capture it, but what they did rather than doing that is they dug up everyone's front yard, rolled a piece of plastic pipe into the trench, backfilled it with unacceptable backfill after connecting them to whatever driveway pipe existed, whether that driveway pipe was a 10 inch pipe, 12 inch pipe or whatever was underneath the driveways. As they went down the line they just stuck I would say probably about a 15 inch plastic pipe over the end of the driveway pipes and halfway grouted the connection together and covered it back up.

President Jerrel: May I ask another question of both of you

because again I don't know? Did you talk to the County Engineer's Office and did they talk to the County Garage and come up with this plan? The three offices that deal with the Commissioners?

Bill Jeffers: Yes and no. The County Surveyor assisted the County Engineer's Office. The County Engineer's Office, I assume, made recommendations to the County Highway Department and the County Highway Department did it their way.

President Jerrel: Who did you talk with in the County Engineer's Office?

Bill Jeffers: Mainly Valerie.

President Jerrel: Okay, and you're satisfied that you told Valerie that the west side of...what needed to be done on the west side and her role was to look at the sizing. Is that correct?

Bill Jeffers: Yes, ma'am and I think she did an accurate job of taking our information and passing that along.

President Jerrel: Okay.

Bill Jeffers: If you go up to about 6000 Ward Road you'll see that the very first pipe is a 10 inch corrugated pipe. It has not been replaced and the open ditch that leads down to it is huge and it fills up with water and a big geyser still spurts out the other end through a sink hole and gushes across Ward Road into Mr. Halcomb's front yard. Until all of these sources of water from the west side of Ward Road are somehow controlled and all the water from the west side of Ward Road continues down to St. George, the folks on Anthony Drive are going to experience volumes of excess storm water causing damage to the roadway and in Mr. Bell's case and possibly Mr. Savage's case causing damage to their homes.

Commissioner Mourdock: Okay, let's turn that and ask the next logical question, Bill, because I want to be sure. If, in fact, in that situation everything west of Ward Road stayed west of Ward Road, do you believe that all of the problem along Anthony Drive would be removed minus a 50 year precip-type event?

Bill Jeffers: No, sir.

Commissioner Mourdock: Okay, a ten year event?

Bill Jeffers: No, sir.

Commissioner Mourdock: Five year?

Bill Jeffers: No, sir.

Commissioner Mourdock: The point being--

Bill Jeffers: There are problems on Anthony Drive that will create...there are situations on Anthony Drive which will continue to be a problem in any significant rainfall of an inch or more of water coming out of the sky in a couple of hours because the people on Anthony Drive have plugged their ditches

too with undersized pipes and homemade contraptions that no one from the county government has insisted be removed. There are pipes that are not connected together. The ditches are filled with pipes that aren't connected. Down at the very bottom of Anthony Drive, the second house from the bottom right before you get to Mr. Garrett's house, you can walk out and look at an inlet and when there is two feet of water running down the pavement of Anthony Drive the water traveling in the pipe that inlet is connected to is insignificant, a couple of inches deep. The pipe that is supposed to be carrying the water is running about that deep and you can stand out here and the water will be up halfway between your ankles and your knees in the middle of the pavement.

President Jerrel: That is in your opinion because the ditches are--

Bill Jeffers: Plugged.

President Jerrel: --plugged?

Bill Jeffers: Obstructed. But I think...the first point I am trying to get back to is that the water on the west side of Ward Road has traditionally gone to St. George. The water on the east side of Ward Road between Dusseldorf and Anthony Drive has traditionally gone down Anthony Drive and behind Mr. Garrett and Mr. Rucker's house and to divert that down to St. George Road would be a mistake.

Bob Bell: Can I ask you a question, Bill?

Bill Jeffers: Sure.

Bob Bell: Whenever the water gets...with the proposal that we have for the west side of Ward Road when it gets to the house next to the church and the church property what does it do then? They came out there and marked those trees and was cutting those trees down and said that was part of the program, you know, and then when we got what they supposedly was handling up there on the west side and said it was done properly and they got down there and stopped. My question is that pump station there, or whatever that is that they put down there in the ground, is going to stop the ditching right? I mean, you can't go on down from that home down to St. George Road?

Bill Jeffers: Right, someone allowed a utility department of some sort, whether it be water or sewer, to place a pump station in the right-of-way so now additional right-of-way would have to be acquired to go around the pump station with a pipe to carry the water down to St. George Road.

President Jerrel: Who would that likely have been?

Bill Jeffers: I don't really know. I guess we could look it up in the deeds to see if it was a dedicated...whether the utility acquired a dedicated easement or whether they just took it upon themselves to stick in it the county right-of-way.

Bob Bell: That has just been freshly done also.

Bill Jeffers: I'm not sure how long ago it was done.

Bob Bell: I mean, I've been out there three years and they were digging it--

Commissioner Mourdock: Yeah, it's been less than 18 months.

President Jerrel: Are you getting what Mr. Bell has said?

Charlene Timmons: Sort of.

President Jerrel: Okay, because we are trying to take minutes. Now I want to give you a little perspective and then if anyone has anything else to say I would invite you to come back next month or at least let's interact on it, but I have very strong feelings that we need more coordination among the three agencies in county government that do this. Then we need to know what we can do and what we can't do. If it means trying to get people to do something that they don't want to do, I don't know if this ordinance will work or not, but I think it is worth trying. I think we have to at least make an effort to get people to do that. I haven't heard anything tonight that I understand because I've heard everybody give an opinion and they don't agree with one another on what the solution is.

Dave Garrett: Mr. Jeffers made a statement that in his opinion the water should run down Anthony Drive and back behind my house and that clearly points out one of the fundamental flaws of the entire drainage scheme for Vanderburgh County which is the county will maintain roadside drainage as long as those ditches are within the county's right-of-way, but the second it leaves that the county can't put any funds towards that remediation and ongoing maintenance. So by undertaking what Mr. Jeffers says the water will come down and it will leave the county's right-of-way at the dead end of Anthony Drive and go into a ditch which is behind the property that I live in. Essentially at that point you're saying that the 36 acres or so that is deemed to drain into that ditch behind my house, while that is owned by a lady across from me, Ms. Cotton, and we're basically saying that's okay, Ms. Cotton and a shovel, a single mom, is going to take care of that ditch? Is going to support that 36 acre watershed? That doesn't even pass the reasonableness test there, so when we say we think it ought to go--

Commissioner Mourdock: Mr. Garrett, wait a minute. I think that does pass the reasonableness test and I know you won't like this, but I get frustrated. Largely what I hear here is an engineering problem and I think Bill addressed it correctly. Let's cut to the heart of it and say what the right solution is, but once that water starts to flow in the county's right-of-way, then clearly we have the obligation. Property rights in this country are such are that when the county's right-of-way ends someone else's right-of-way begins. Now that is where, and I know you didn't like the word before, but the "rat on your neighbor law" may have some application. I mean, the county...you don't want county government so powerful that we can tell everybody what to do with their property. Believe me, you don't want that. For right now it may seem very expedient, but in the long run it is not what you want. There's an old line about any government big enough to give you everything you want is big enough to take away everything you've got. That's not the answer. There is still going to have to be the personal responsibility of whoever owns that piece of property or the recourse of the people affected by the lack of action by that

person.

Dave Garrett: I guess the point that I was trying to make is all things being equal the county has the ability to better maintain ditches than a single homeowner and there is a way that it can be accomplished by running it through existing ditches into a flow that works and gets it down to a legal drain. That's going to be preferable to everyone versus entrusting that to an individual homeowner with a shovel and that was the point I was trying to make.

Commissioner Mourdock: Alright, fine. Bob?

Bob Bell: Yes, I would like to say one other thing for the record and this is basically because of new members to the Board, but at the time we started this and as we pursue this thing, and not to drag it on tonight, there have been two or three different times Mr. Mourdock and ourselves discussed it. One time to where I had went down Anthony Drive and talked to all the neighbors, especially on my side of the street where it seems like all the dang water stays anyway, towards having a meeting and getting a neutral agreement on what it would take coming down through there and reditching those homes and what have you. At that particular time was when Mr. Jeffers and Valerie and those came out and did extensive surveying on which way this water could go and what would be the right way to do it. Not taking anything away from this gentleman, he has spent hours out there. What I am looking for is somebody call me and say okay Mr. Bell this is what we are going to do. Can you get the people together and get them to agree to go on down the rest of the way? I think we can make it a very easy opportunity to correct some of the problems that we've got. There's going to be people down there that create a problem, but I think they can be talked in the right direction because they've seen what it is doing to properties.

President Jerrel: Okay, well I am going to do this and I am new so if I stick my neck...I'm going to call Valerie and I am going to call Bill on other than a meeting time during his work day and I am going to ask them to tell me exactly what they feel needs to be done to correct the problem and then I am going to call you. Then if there is some measure that we can begin by your interacting with the neighbors, then that is what I think we ought to do. I need your phone number.

Bob Bell: It's 477-3225.

President Jerrel: Alright. I will do that next week and I will call you.

Bob Bell: I'd really appreciate it. Thank you folks for your time this evening.

Commissioner Mourdock: Let me just add one thing. If we are going to do that, and I've said before that I think it would be helpful to do it, it would be good before the meeting to have a map from John that shows a line on the map where he thinks if there is going to be something widened or excavated and where it is at to make sure that the property owner who owns that piece of property--

President Jerrel: That they understand.

Commissioner Mourdock: --shows up at the meeting and knows what it is. It doesn't do any good to have five in a row and then have the sixth one say oh, no, oh, no, I don't want that.

Bob Bell: We've already experienced that situation when they started what work they've done because one of those gentlemen just threw a fit and was very much out of line. I think a lot of it sometimes is because we don't get together and say okay guys this is our plan and we're not going to leave you in disarray. We're going to try to help the situation for everybody. Maybe it would have been a better situation. With that particular gentleman, I don't know.

President Jerrel: I have a question to ask, Bill. Is it possible that Valerie would know houses on her map?

Bill Jeffers: If I am not mistaken, I believe Valerie has drawings that show each property, each driveway with an address and possibly property owner's names as well.

President Jerrel: That's what I needed. Thank you. Thank you very much.

#### **Alfred Buck - Homeowners Association variance request**

President Jerrel: The next item is Mr. Buck.

Alfred Buck: I'm Alfred Buck. I live at 2400 Knob Hill Drive. I'm the developer of Knob Hill Estates. Knob Hill Estates is a small subdivision consisting of four lots, but it still had to have a water retention basin. As a result, the maintenance of that retention basin must be guaranteed. I believe it is that each subdivision is required to have a homeowners association if there is a retention basin that would see that the retention basin is maintained. Mr. Morley, Jim Morley, has consulted with Mr. Jeffers and they have said that one solution to this without declaring a homeowners association is to put on the plat plan before it is recorded the stipulation that the four property owners that own lots in Knob Hill Estates would share equally in the cost of any maintenance of this water catch basin.

President Jerrel: I have two question. I don't know if that's...is that true, Jim? I mean, I want somebody to tell me legally that is a true scenario.

Jim Morley: Actually, and I know he is busy at other things, but it is really a question for the attorney. When we wrote the drainage ordinance and adopted it a couple of years ago now, we provided that every time we have storm sewers outside of the road right-of-way or any detention basin there will be two methods of guaranteeing their perpetual maintenance of the facilities. We put on their plat that the normal maintenance of erosion control and mowing and so on falls to the landowners, but then we provide that the physical facility, the pipe, can either be done by Method A: formation of a homeowners association or Method B: a payment to the county of X amount per lineal foot. One of the things that is of concern since that ordinance was written was whether or not we properly treated the homeowners association. We have heard since that time of some problems of associations incorporating or failing to even be incorporated and either not ever existing or going out of

existence just simply by eliminating themselves. In Mr. Buck's case he has only four property owners. I felt that was a likely candidate if we said well go down and incorporate, that was a likely candidate to go out of existence. So by the plat, I attempted on the plat to obligate each of the four...and I have titled it and I don't know if you have copy of the plat or not?

Alfred Buck: I don't know if this one has it on there or not.

Jim Morley: Okay, I have titled it homeowners association. I have defined that they share equal, you know, one fourth of the cost right on the plat. I felt by doing that I could by the plat bind the properties and their obligation right on the plat, then we need not worry about whether or not they ever incorporate or ever think they are going to go out of business. They've now been obligated by the plat to provide that perpetual maintenance. So that was...and Bill said, well, I don't know if that's the right way to handle it. Let's bring it before the Board. It really is kind of a legal opinion that we are after here. Is this properly binding these four property owners to maintenance of this detention easement?

Commissioner Mourdock: I guess if we do that the key question becomes you've got four entities out there writing a check each year to somebody. What is that entity? It would seem to me that you are almost ending up defining an association anyway.

Jim Morley: That was my intent. That was my intent. I went back to your ordinance and I noted that nowhere in our ordinance did we define what an association was. Nowhere in the ordinance did we say that they had to be incorporated or that they had to file papers with the Secretary of State. It just simply refers to a term "Homeowners Association". So I thought, well alright, let's handle it. I'll do it right on the plat and I think that was the primary question that Bill had of me. Well, I don't know, you know, if that is the way to do it, so that is why we brought it up.

Commissioner Mourdock: The other question that comes to mind if you do that, yeah, you're forming this defacto group, but there is no enforcement power to come back.

Alfred Buck: Let me make a suggestion here.

Commissioner Mourdock: Sure.

Alfred Buck: That also on this plat would be stated that the property owner of Lot 1 would be responsible for calling the parties together and seeing that whatever maintenance work would be done.

Joe Harrison, Jr.: The only thing is that this is the first step, so this has not been approved by Area Plan?

Alfred Buck: Right.

Jim Morley: The primary plat has. This is strictly a Drainage Board matter.

Joe Harrison, Jr.: Okay.

Jim Morley: I mean the primary plat has been approved and he is actually ready to record it.

Joe Harrison, Jr.: Okay, you see what I was asking?

Jim Morley: Yes, and the guarantee of the drainage and how it is carried out is really a function of your body and really I guess what we are saying is that you've got the final say on whether or not we've got a good solution here.

Joe Harrison, Jr.: I would have felt much better had this been done up front before you went to Area Plan.

Jim Morley: Actually, Area Plan just simply says is the drainage approved and all of its stipulations? They leave all of that up to this Board.

Joe Harrison, Jr.: But it still has to go back?

Jim Morley: No.

Joe Harrison, Jr.: It has been preliminarily...or approved?

Jim Morley: It had primary approval. It is ready with the proper bonding for work that he has not yet finished. It is ready to be carried down to be recorded with the proper bonding. He has certain...he tried to get it all done last year and didn't and he has erosion and sediment problems that he has got to correct this spring. Our problem here is have we addressed this issue of the association correct?

Commissioner Mourdock: Okay, if this were a subdivision with let's say 100 lots in it and there is a normal subdivision and two or three out of the 100 refuse to pay over a period of years. There is effectively a lien going against that property in favor of the neighborhood association. If you set this up as it is being described, I don't hear that you have that kind of go back power because you're not creating something so formal that would make the claim of the lien. Am I making sense?

Joe Harrison, Jr.: Yeah, but he is correct in that there are some associations that have, for one reason or another, have gone by the wayside and they would be in the same predicament.

Commissioner Mourdock: But that could happen anyway.

Joe Harrison, Jr.: Right, so I don't know if that is a...I mean, it's a concern, but I don't know how big of a concern because it is happening...I don't know about daily, but yearly.

Jim Morley: My thought was by putting it on the plat I have--

Joe Harrison, Jr.: You're on notice.

Jim Morley: --created a public notice to every single property owner and that rather than this method outside of the platting process which I'm afraid could fall by the wayside especially in a small one. That is the reason that I sought to do it here.

President Jerrel: Again, I am going to ask a question. What you're really trying to do is identify who will equally share in

the cost of the water retention basin?

Jim Morley: Right, and it has never been done on the plat before and that's the reason Bill wanted it explained.

President Jerrel: Okay.

Bill Jeffers: Now wait a minute. Wait a minute. Don't put my name on this.

Jim Morley: Well, I mean, we've never created an association on a plat before.

Bill Jeffers: It's on every plat.

Jim Morley: No--

Bill Jeffers: The language about a homeowners association is on every plat.

President Jerrel: I mean, is there anything that ever goes on a plat?

Bill Jeffers: Yes, ma'am.

President Jerrel: Can you say something like water retention basin will be maintained by Lots 1, 2, 3 and 4? Then your Lot 1.

Bill Jeffers: Under the ordinance this is the language that goes on the plat for every subdivision that chooses to have a lot owners association.

President Jerrel: Right, but if you didn't have a lot owners association and on the plat it was stated that--

Bill Jeffers: It would be Plan B and then the language is on the next page.

President Jerrel: Okay. You know, if there is a notice or whatever.

Alfred Buck: I'm wondering if the plan we're suggesting fails, then the County Commissioners have the option to take the third or the other option that you are speaking of and that is that the county take it over and also charge the lot owners. Isn't that correct?

Bill Jeffers: The reason I put these two items on the agenda in front of all the folks that are sitting here waiting for their subdivisions to be approved is number one, Mr. Garrett is in a subdivision which the Commissioners under their '86 ordinance required having a homeowners association and he's up here asking you to do the work in his ditch.

President Jerrel: They've never had a homeowners association?

Bill Jeffers: They've never formed a homeowners association. Now you have a developer in front of you who it was my original understanding his insurance company said it would be too expensive to form a lot owner association, see if you can't do it some other way. I was directed by the Commissioners in 1994

to include the language that I placed on your desk. I was given a direct order by the Commissioners when writing this ordinance to include an improved version of the 1986 language and that is what I put on your desk. That's what is a part of the ordinance.

Commissioner Mourdock: I didn't think that it was coincidental that these two were on the agenda side-by-side. I guess I have a problem--

Jim Morley: We really have no objection to Method A in all of the language therein on the association, but I point out to Mr. Jeffers that no where does it say the association has to be incorporated.

Bill Jeffers: I never claimed to be the most brilliant person in the world and that is why we had a committee to look at what I had written and Mr. Morley volunteered for that committee--

Jim Morley: That's right.

Bill Jeffers: --and played a big part in it.

Jim Morley: That's right and now I think we've got a problem with it and it's--

Commissioner Mourdock: You're a crafty devil!

Jim Morley: --a legal problem.

President Jerrel: Is what is written here for ever and ever and ever? I mean can't you ever correct something?

Joe Harrison, Jr.: We can amend it.

Commissioner Mourdock: You can amend an ordinance.

Bill Jeffers: I suggested the entire ordinance be gone over and corrected at length because there are a whole lot of things that we have come to find out are catch-22's.

Commissioner Mourdock: That notwithstanding, and I'm sure that we can always revise every ordinance that we've got, but I personally just have a problem saying that because an association might disappear ergo there is reason enough not to have an association. I mean, you're right, Jim. Those associations could disappear and otherwise become defunct, but it is my observation, and correct me if I am wrong, fewer of them become defunct than remain solidly in existence.

Bill Jeffers: First they have to be formed and I don't know of any of them that have been formed since this ordinance took place unless Keystone is possibly one. You know, and every one that I've seen in the restriction is like after such a percent...so many lots are sold and then we'll form it. Well, that's what it says on Oak Ridge. That's what their language said. After so many lots are sold then we'll form it and now seven or eight years later you have Mr. Rucker up here saying I don't want to take a shovel in my own backyard and fix my own problem, I want you to come fix it. Yet, he should be going down there to his neighbors and forming a homeowners association and anteing up.

Myron Rucker: Can I--

Commissioner Mourdock: Mr. Rucker I thought--

Bill Jeffers: I don't mean Mr. Rucker, Mr. Garrett. Please scratch that.

Myron Rucker: Well, I wanted--

Bill Jeffers: I apologize. I truly apologize.

Myron Rucker: I'm at the bottom--

Bill Jeffers: Mr. Garrett was up before the microphone. Mr. Rucker just happens to be the one I like the best.

Myron Rucker: I wanted to make sure my name wasn't--

Bill Jeffers: I'm sorry.

Jim Morley: We don't care either way.

Commissioner Mourdock: Fair enough.

Myron Rucker: I'm the one that should be angry.

Alfred Buck: What I am hearing here is that the ordinance is being ignored and what you are saying to me here is ignore it. We're here in front of you to try to come to a simple solution to a basic small problem. Can you see a homeowners association...and it is costly. I have said that it is costly. To keep it going is costly and it is time consuming. For four people it is asinine. That's the word that I gave to Jim Morley. As a result, government is here to serve people in a reasonable manner and they're here to...if there are problems government is also to put the "B" on people. I would like to make a few comments about the problem out there, too because I am experienced in that area for thirty some odd years. I think in just a minute I could summarize that situation pretty fast. I ask you until we have a better solution we suggest that our solution to the problem of maintenance of that basin be done by four people and that one person be responsible for gathering those four people together and seeing that it is taken care of. I don't foresee that there is going to be any problem, but there may be and we are covering the maybes.

President Jerrel: Well, how will they know this? You're saying by the deed or the plat will say--

Jim Morley: Yeah, it is all written right onto the plat.

President Jerrel: But I mean will it be...will they understand? Will it be clear?

Jim Morley: I don't know.

Commissioner Mourdock: Are any of the four properties sold?

Alfred Buck: No. I own them all and I don't have any intention of selling any of them to tell you the truth.

Jim Morley: You read the language and I wish I had it here.

President Jerrel: But it would be clear on the plat?

Jim Morley: I think that it is and I guess what I am...we're up here together in a way trying to argue out a session that we really would kind of like to have the attorney look over and say this does it or doesn't--

Commissioner Mourdock: Can we just take it under advisement?

Jim Morley: --and we're willing to go--

President Jerrel: Well, but I can see your point, but I want him to look at it.

Jim Morley: Okay.

President Jerrel: That makes sense.

Jim Morley: We would modify it however, you know--

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

Commissioner Mourdock: I would move that we take this under advisement.

President Jerrel: Second.

Alfred Buck: Fine.

President Jerrel: So ordered.

Alfred Buck: Do you mind if I make just a brief comment in regards to the whole area out there.

Commissioner Mourdock: Fire away.

Alfred Buck: Isn't there a Barrett Law? Okay, that Barrett Law...I know that's probably an Achilles' heel--

Commissioner Mourdock: No, we've talked about it many times.

Alfred Buck: --but there is some way that you've got to finance it. That's the money. That's the problem, is paying for it. Now the people that live down on Anthony Drive they have responsibility, but all the people in that area have responsibility. As far as I am concerned, I have a responsibility in that to see that water is diverted in a proper way that is not flooding people. I do think that the developer of Anthony Oaks, or Anthony or whatever it is, Subdivision was allowed to get by with murder putting that down in that hole. But that is the past.

President Jerrel: Yeah.

Alfred Buck: Okay, we need a ditch on both sides of the road or a tile that is big enough to carry that water. Even if it got down there now there is no place for it to go. It goes out on top of the ground, so there is a major problem there that should be taken care of by somebody. I'm on top of the hill sitting at about 460 feet. I don't have the problem, but I feel for these

people every time it rains.

Bill Jeffers: To close the discussion I would like to take a little more of your time. Knob Hill a part...Knob Hill Subdivision had a homeowners association. The subdivision which Mr. Buck is subdividing again. He owns one big lot in Knob Hill Subdivision and he is dividing it into four or five lots and the reason he had to have a detention basin and all these improvements was because Knob Hill Subdivision homeowners association...well, first of all the subdivision was built improperly to the point that the county has never accepted the roads. Okay? The homeowners association maintained or altered the drainage system so drastically that when Mr. Buck came in to subdivide his lot all the neighbors who were suffering from the damage of the ill-maintained subdivision came in and remonstrated against them and we had to force a ridiculous drainage plan on this man.

Alfred Buck: It's \$12,000 worth to this date--

Bill Jeffers: Because inlets were plugged, ditches were plugged, driveway pipes were too small, blah, blah, blah, blah, blah. And so that tells you how homeowners associations go. You know, they're selfish. They are made up of selfish people who are looking out for their own self interest and they just as soon see the thing go out of existence so that they don't have to pay any money into it, but when they've got a problem they are back up here in front of this Board. The result, not of Mr. Buck's lots as they are now, but the rest of Knob Hill that came up here and also remonstrated against Mr. Buck originally, the result is that their water travels between their lots rather than going down the street like it is supposed to because they blocked all the ditches. It travels between their lots, through their backyards and into Mr. Bell's backyard in Anthony Acres. That's where a lot of the water is coming from that goes to Mr. Bell. Right off Pine Tree Lane or whatever it is called. It's a nightmare out there and homeowners associations are supposed to be formed and perpetuated. There are even homeowners associations you'll find, that say after 20 years, it goes out of existence.

President Jerrel: May I give this copy to our attorney?

Bill Jeffers: Like I said, the Commissioners directed us to include that language in the ordinance and it's there and they have a choice between Plan A and Plan B. If there is a better method...again, Mr. Rucker, I apologize for using your name out of turn.

Myron Rucker: Well, I need more than--

President Jerrel: And it will be in the minutes.

Myron Rucker: --a shovel down there where I am at.

Bill Jeffers: I was referring to Mr. Garrett.

Myron Rucker: I'm at the bottom of the hill and ditch problems and I get the water after everybody sees it.

Bill Jeffers: He's had it in his back door where Mr. Garrett hasn't.

Myron Rucker: I have it in there five or six times, but I'll talk about it later. We need more time than this.

**Keystone Estates, Section VI - Preliminary drainage plan**

President Jerrel: Alright, Keystone Estates, Section VI.

Bill Jeffers: The engineer design in Keystone Estates, Section VI included some extra paper around the margins of his new subdivision so I showed you approximately where the lake in Keystone I, II and III is. That would be over to your left on the paper. Then I showed you where the lake that you approved, oh, a couple of months ago for Keystone IV is. Now they are adding another huge section of lots and the new lakes are not numbered by me. I just shaded them blue to show you they were lakes. One of them is a detention basin out by Heckel Road.

President Jerrel: Is that this one? Am I looking at...it's this one over here?

Bill Jeffers: Yes, ma'am. This is Heckel.

President Jerrel: Okay.

Bill Jeffers: Green River would be over here about one quarter mile and Oak Hill is over here. This way is Eastland Mall and that way is Daylight.

President Jerrel: Okay.

Bill Jeffers: Okay, that detention...what that detention basin does is it slows the water down before it discharges it in to the south side of Heckel Road, the large side ditch there. That big area that I kind of put a red X through, that is the Dr. Williams who was up here last month or so who told you he was concerned about a low area in his front yard. I think you remember that. The drainage plan proposes to drain the property all around Mr. Williams away from his property and into one of the lakes or one of the side ditches. I've looked at the plan and the only concern that I intend to address between now and the presentation of the final drainage plan with the developer's engineer is that orange stripe that I have painted at the release point of the large lake at the south end of the project. What they have done there is they are going to cut a new release point and discharge that down into an usable portion of the floodplain which may or may...may be common area in the future or right now it is being called an outlot. My only concern there is when they discharge that out into the floodplain I would like to see an orderly waterway from there to Furlick Creek as much as possible and we're going to discuss that with the developer's engineer between now and the time that they bring in the final drainage plan. The engineer, David Schminke, is here as well as one of the principals in the project, Mr. Biggerstaff. Mr. Morley is the associate for whom Mr. Schminke...or with whom Mr. Schminke works. Mr. Bussing was here earlier. He is another developer. I think he had heard enough.

President Jerrel: I have a question. When you...this new retention basin is to...you feel comfortable with Mr. Williams that this is going to help him?

Bill Jeffers: It will. That ditch that it is discharging into is downstream of Mr. Williams' property and that water will be carried down to the intersection of Heckel and Green River Road away--

President Jerrel: It has someplace--

Bill Jeffers: --from Mr. Williams, yes.

President Jerrel: --to go when it gets down there?

Bill Jeffers: Yes, it does. It goes across the street to the north along the west side of Green River Road to Furlick Creek.

President Jerrel: Over here, and I am just looking at the drawings, you believe this will if you funnel it or whatever you are recommending?

Bill Jeffers: Right now it just kind of drains off farmland. Through these low points they are going to cut a trench out and dump it out here and I just want to make sure it will orderly go through that floodplain.

President Jerrel: Okay.

Bill Jeffers: Our recommendation is to pass the preliminary drainage plan for Keystone Estates, Section VI.

Commissioner Mourdock: I'll move for preliminary passage Keystone Estates, Section IV.

President Jerrel: I'll second--

Commissioner Mourdock: I'm sorry. Section VI.

President Jerrel: I'll second and so order.

Commissioner Mourdock: I normally do go backwards!

Bill Jeffers: Yeah, I got caught here doing 53 and a 35 yesterday!

President Jerrel: Did he believe you?

Bill Jeffers: That I was dyslexic?

President Jerrel: Yeah, you suffer from dyslexia?

Bill Jeffers: Nope, didn't believe me. Just kidding.

### **McJohnston Heights Subdivision - Preliminary drainage plan**

President Jerrel: Okay the next item was deferred, number eight. Number nine, the McJohnston Heights Subdivision.

Bill Jeffers: This is a preliminary plan for a proposed subdivision of 171 lots located on Seib Road about 1,100 or 1,200 feet north of Kansas Road. It's just west of 57. I think on the little site map down there I drew in kind of a rough sketch of where Eagle Crossing is with BSH, a subdivision with the golf course proposed in it and then the new school property

that may become a new elementary school. McCutchanville Park is close by. What separates the park and the school property from this property would be a creek known as also Furlick Creek. It's the upper end of Furlick Creek. The developer's engineer, Mr. Bill Nicholson, is in the audience and he and I had a discussion earlier about his placement of the detention basin in the floodway for Furlick Creek. Also in the audience is Dave Hynes, H-y-n-e-s, I believe, and Mr. Hynes has some comments he would like to make. Of course, Mr. Nicholson is here if he would like to speak to those comments.

Dave Hynes: As Bill said, he stated my name correctly. My address is 10345 Seib Road and I am adjacent to the proposed subdivision. I am here tonight to bring up three specific items which I feel have a significant impact on the drainage proposed by this developer. The drainage plan proposes to construct a drainage retention basin within the floodway. This floodway has been designated by the Indiana Department of Natural Resources and the findings of this report are made part of the drainage report which was submitted by the engineer to Mr. Jeffers. Because the plans are to construct the basin in the floodway not the floodplain, a permit is needed by the developer prior to performing any type of construction within the designated area. There have been no other instances as far as I know of in Vanderburgh County's history or the Drainage Board where they have allowed construction in a floodway. I think that there is a great fundamental difference between the two. The Vanderburgh County Drainage Board does not have the jurisdiction governing construction in the area stated. Construction can only commence with DNR approval. If DNR would not grant a permit for construction in this area, the entire layout of the proposed subdivision would change thus the drainage would change, the lot layout would change and many of the parameters of the basic fundamental layout would change. At this point the drainage plan should not be approved because it would be much the same as placing the cart before the horse. Secondly, the new drainage ordinance for Vanderburgh County enacted on October 31, 1994...I would like to speak a little bit about that and the specifics in it. Some of the specific criteria in the ordinance, in particular, Article 1307.14 disallows detention/retention basins with emergency overflow spillways to be built below the 100 year flood elevation. This article entitled Automatically Opening Emergency Spillways Required states and I quote:

"The emergency overflow spillway shall be designed so that it operates openly, automatically, does not require manual attention and will pass the 100 year return period flow with a one half foot vertical minimum above the 100 year storm flow at the lowest dirt elevation in the surrounding dirt work."

The 100 year flood elevation as established by DNR in their 1987 study places the elevation at approximately 396.3. The drainage report submitted states that filling for berms in this area will not be allowed. The lowest ground elevation around the basin according to the engineer's report is 392.6. With consideration of the criteria of Article 1307.14, this equates to a difference of 4.2 feet below what is required by your ordinance. This cannot be permitted and is flagrant violation of the adopted ordinance. If, for instance, construction was permitted as proposed the floodwaters of Furlick Creek could come up rapidly inundating the basin thus defeating the purpose of having the

basin. The basin will not function as intended and runoff generated by the 25 year storm will not be retained and just discharged as prescribed in your ordinance. I have lived in this area for four years. I can attest to the fact that Furlick Creek last year alone was out of it's banks four times. Three of which the waters were at a depth that Seib Road was impassable. What I have stated can be proven through the use of hydro graphs and further engineering studies. I believe the burden of proof is in the engineer's hands. The Drainage Board has already stipulated that no fill would be allowed in this area. I assert again that the designs submitted will not function within the guidelines set forth by your adopted ordinance. Lastly, the Indiana Department of Transportation has recently awarded a contract to a local contractor to reconstruct the Furlick Creek Bridge crossing Highway 57. INDOT's plans are to lessen the opening of the bridge by some 30 to 35%. In terms of hydraulic capacity of the creek this is a significant decrease in the size and capacity and warrants investigation. This decrease in the size of the bridge will not only impact the area, but will also cause backwater flooding. Therefore, it is my belief that the 1987 DNR study completed for this basin will no longer be valid. The study should be updated using the elements of the topography as they will exist. It is my intention to bring these points before you for your consideration with the thought that the most informed decision is the best decision. The Vanderburgh County Drainage Board has an obligation to the people of the county as well as the future residents of this subdivision to ensure plans that protect against flooding. Thank you.

President Jerrel: Thank you. Questions?

Commissioner Mourdock: Yeah, I'll ask kind of the switch question here, on or off. A fundamental point, if not the fundamental point that Mr. Hynes raised, I think, Joe, was the question of this Board's jurisdiction given there would be construction within what Bill's map also shows as a floodway. Care to give us a ruling on that one? Do you think that we have jurisdiction if there is to be construction in a floodway? I understand the construction is limited within the floodway solely to that basin under this plan. Is that right, Bill? Okay.

Joe Harrison, Jr.: I'm going to have to check on that. Obviously, he has cited some things that are in the ordinance which trouble me, but I can't tell you right now without looking at it further the answer that you want. Mr. Jeffers may have some insight. There may be some others, but I would prefer to look further into that issue.

Commissioner Mourdock: Okay, well, that's a fair answer with an on-the-spot question. I guess it begs the next question though which is if this is a preliminary plan and if we were to act favorably on this tonight in no way does that take away from what we might otherwise rule given the results of your investigation as to that statute?

Joe Harrison, Jr.: Right, this would just be preliminary approval and then, obviously, it is contingent upon further review. If, in fact, there are problems out there that would be up to this Board to decide whether or not they want to give final approval.

President Jerrel: I have a question, Bill or Jim or somebody. I thought you, I mean, I thought that was just the rule of thumb that you don't get a permit in a floodplain, but you do get one in a floodway from DNR?

Jim Morley: My name is Jim Morley. DNR held a conference down here in Evansville just a few months ago in which they attempted to inform all of the professionals and other people and developers working in this area. DNR has jurisdiction within the floodway of everything except a state highway bridge. If you have more than one square mile of drainage, Furlick Creek does have more than one square mile of drainage in this area, so, yes, DNR does have a floodway. Yes, they did define one back in '87. DNR did that back in '87, in fact, when I worked on a project on Edgar Kuhlenschmidt's property, which is now the property that they are talking about. It was I who had originally requested the DNR study of this particular area. I think that certainly DNR does have jurisdiction within the floodway because it meets all the criteria and their ordinance says you shall not deposit any dirt. They interpret deposit as also meaning excavate since dirt would fall from that. I don't know that it necessarily negates the Drainage Board's responsibility for approval of drainage plans, but it would certainly prevent or perhaps make invalid a final approval of any plan without knowledge of DNR's approval of what would happen.

Commissioner Mourdock: Thank you.

Dave Hynes: If I may?

President Jerrel: Sure.

Dave Hynes: The only other point that I would like to bring up is if you look at where the drainage retention basin is located should DNR not allow construction as they have planned, and I tried to bring that specific point out, it would change the whole scope of the subdivision, so you could let this developer get through all his bases and get to the end and whenever it comes to the end you may not have a doable plan. That was one of the main reasons why I brought this point up.

Commissioner Mourdock: But if we got to that point and there were that many...there were, in fact, major modifications to the plan would they not have to be resubmitted, Bill?

Bill Jeffers: I would like to agree with almost everything Mr. Hynes has said with the exception that I believe he said the ordinance doesn't allow us to...our own county ordinance doesn't allow us to put drainage basins in a floodway. I don't believe that's the case.

Dave Hynes: No, that is correct. I may have stated that somewhat incorrect.

Bill Jeffers: However, everything else that he has said is well informed. I would like to say it slightly different. If you were to grant preliminary approval of this plan you would be giving a go ahead to the developer to go on the Area Plan Commission to examine all the other issues with regard to density, land use, traffic patterns, etc., and you would be giving...if he passed that...if Area Plan Commission passed him

they would be giving the green light to the developer to go ahead with more detailed construction plans, etc., and at some point to come back to the County Surveyor's Office and the County Engineer with street and drainage plans and to come back to your Board for final Drainage Board approval. All the things that the developer would do after your preliminary approval would cost him money. Okay? Then we stick in...we plug in the factor that the State of Indiana, Indiana Department of Transportation, is choking down the opening on an existing highway bridge through which this creek passes 2,000 feet below this subdivision, this proposed subdivision, and when they do that Mr. Hynes again is correct and even the state has said they will raise the elevation of the 100 year flood. Now, our office and Mr. Morley's office disagrees. We agree with one another, but we disagree with the state as to how much the 100 year floodplain will be raised by this because the Indiana Department of Transportation is exempt from the same rules that we have to abide by. That is that the Indiana Department of Natural Resources has given us a flow rate of 1,450 cubic feet per second through this channel as it passes alongside this subdivision during a 100 year storm. The design engineer for INDOT is using a flow fact of 1,120 cubic feet per second 2,000 feet downstream after two more tributaries come in and a couple of hundred more acres drain into that bridge. I presented this information to INDOT at their field meeting Thursday at 9:00 in the morning out at Spry Road. She swallowed a couple of times, the design engineer, but I was told that they had no plans...that they knew about this, but they had no plans of doing anything other than continuing with their construction of a smaller bridge then what exists out there today. If we give the developer the go ahead, which I am willing to do... I'm willing to recommend the approval of a preliminary plan so that he is given the opportunity to go forward, but he should know that if the Board takes that recommendation and passes this plan on he may be spending good money developing further plans. I want fair warning to this man that when the floodplain after the new bridge is built and when the new floodplain is established he may have to bring in additional dirt because he is showing protective grades for the finished floor elevations of, I believe, 404 feet above sea level which is currently two feet above the current 100 year flood. If that 100 year flood is raised substantially, he may have to raise those building pads another foot or two and that means more dirt.

President Jerrel: Are those plans for the bridge already in force and moving on?

Bill Jeffers: The contract has been let and they had a preconstruction meeting on Spry Road Thursday at 9:00.

President Jerrel: Did you guys put that in writing? I mean, I know that's like--

Bill Jeffers: We sent the information to DNR through the mail and the Department of Transportation representatives and the construction company executive who was at the meeting both acknowledged that somewhere upstate they had taken a look at the information that we had forwarded to them and said we're going to go ahead with the bridge anyway.

Commissioner Mourdock: Well, I feel somewhat the same way you do, Bill. I am willing to go forward with this on preliminary.

That in no way would commit me to vote for this either at APC, where I am current a member on the Area Plan Commission, nor does it dictate how I might vote this for the final drainage plan.

Bill Jeffers: I wish the developer were here to hear this because I don't want him to think that we're saying this is an absolutely doable plan.

Commissioner Mourdock: Let me finish. I would also add or ask Charlene, if she would, to send the minutes of this meeting or at least this section of this meeting dealing with the McJohnston Heights to the developer, so that he is well aware of this discussion and the concern that we have and the very valid questions that you have raised and that Mr. Hynes has raised.

Bill Jeffers: In closing, I want to qualify the recommendation because our ordinance does require for a positive recommendation that this is an otherwise, even though it is preliminary, that it is an otherwise workable plan. I would like to say it is only workable if the developer is able to obtain a construction permit for his detention basin with embankments around it that meet the requirement of our drainage ordinance.

President Jerrel: What kind of information goes to Area Plan? If we preliminary it...if this is given preliminary approval, what else goes to them?

Commissioner Mourdock: Basically, this goes to them with the recommendation of the preliminary drainage plan. Also the APC people receive traffic counts from EUTS and any comments from the staff regarding how this residential subdivision fits in with the overall Master Plan for the county.

President Jerrel: So they don't really hear any of this discussion?

Commissioner Mourdock: I can certainly bring it up as a member of the Board that there were questions regarding that and oftentimes Ms. Cunningham, when there is an extensive discussion, might make reference to something from the Drainage Board.

President Jerrel: Well, I think that would be appropriate--

Commissioner Mourdock: Sure.

President Jerrel: --if the preliminary is granted. I think you need to say just exactly what Mr. Jeffers said that unless that is going to happen then we don't need to move any further.

Commissioner Mourdock: But we can't very well issue a conditional preliminary approval--

President Jerrel: No, but--

Commissioner Mourdock: --based upon his receipt of the construction permit from DNR can we? I mean, or were you saying conditional on final?

Bill Jeffers: I want the developer to clearly understand that we made the recommendation so that he might proceed. However, we

acknowledge that it is not a workable plan if he can't get the permit from DNR and also he may have to raise his finished floor elevations if a study shows that the floodplain will be raised. His only other recourse if the floodplain goes up, which it will, is to come back to the Floodplain Management Committee and ask for a variance to build below the required two feet above the 100 year flood.

Commissioner Mourdock: Okay, we need time-out for Charlene to change the tape.

President Jerrel: Okay, are there others here to speak to this particular issue?

Commissioner Mourdock: Wait a minute, Bill, we need to change the tape.

**Tape change**

Charlene Timmons: Would it be okay if I go to that portion of the minutes, type it in a draft form and supply it to Mr. Jeffer's so that he can get it to the developer?

President Jerrel: Yeah.

Commissioner Mourdock: Sure, that's okay. I would also ask that whatever you send to the developer you send specifically to Barbara Cunningham as well so that she sees it for Area Plan.

Charlene Timmons: Will you copy Barbara Cunningham?

Bill Jeffers: Sure.

Charlene Timmons: I assume it would have a cover letter, you know, to the developer from you saying that this is what was discussed in the minutes?

Bill Jeffers: Sure.

Charlene Timmons: When would need that by?

Bill Jeffers: What is the first Wednesday in April?

Commissioner Mourdock: How about April--

President Jerrel: Second.

Commissioner Mourdock: --second.

President Jerrel: That's awfully soon.

Charlene Timmons: Yeah.

Bill Jeffers: That's the date of the meeting.

Bill Nicholson: The date of the Plan Commission meeting.

Charlene Timmons: Okay. I'll do my best.

Bill Jeffers: If I brought it to you Monday?

President Jerrel: Well, even if you did that section.

Charlene Timmons: Yeah.

President Jerrel: Even if you did that section--

Charlene Timmons: It's a short week and I have...but, I'll...yeah.

President Jerrel: Just that one part.

Commissioner Mourdock: Who is the developer?

Bill Nicholson: Clement Frank.

Commissioner Mourdock: Okay, thanks.

Bill Nicholson: I have discussed this somewhat, not in great detail, but he is well aware that it is in a floodplain. He is well aware of some of the problems of the development.

President Jerrel: Well, he knows then. You're indicating that, too, that there are a lot of hoops to jump through.

Bill Nicholson: Yes.

Bill Jeffers: I guess I am bonded and all I would have to do is appear in court. I just don't want to see the Drainage Board have a legal action taken against them by a developer who said, hey, your ordinance said that when you passed this plan on a preliminary basis it is a workable plan. Well, yeah, it is a workable plan if he can get a permit from DNR, if he can meet the requirements of the drainage ordinance with his final plan, if the floodplain elevation is raised he can either get a variance or bring in more dirt.

Commissioner Mourdock: Well, Mr. Frank will get that part of the minutes, so you are clearly on record.

Commissioner Mourdock: Again, with deference given to Mr. Hynes' comments, and I think they are very valid legal questions of this Board, and the overall potential actions of the DNR, DOT and everyone else, I think, this is somewhat questionable, but at least for preliminary approval I'll move preliminary approval of McJohnston Heights Subdivision.

President Jerrel: Do you understand the process that we are going through now, Mr. Hynes?

Dave Hynes: Yes.

President Jerrel: Yes.

Dave Hynes: There is only one thing, if I may?

Commissioner Mourdock: You need to go back to the microphone.

President Jerrel: Yeah, go back to the mike, please.

Dave Hynes: I think that Bill brought up the point that he felt that this is a doable plan. With the...not to get too specific, but with the criteria that was submitted in the engineer's

drainage plan they proposed a natural overflow at the existing ground elevation because they stipulated that DNR...they already know through past permits that DNR will not let you fill in this area. What I brought up was that your ordinance requires that the spillway be one half foot higher than the 100 year flood. If the detention basin can't be filled...if a berm cannot be built around the detention basin and it is proposed in the floodway I don't think there is anybody in here that will disagree that this plan will not work. We're struggling with two things right here. One person is saying that this plan will work and I am saying that this plan will not work.

President Jerrel: Well, the person who is going to pay to get all this done to meet these criteria if he wants to proceed is the developer--

Dave Hynes: That's correct.

President Jerrel: --so we are going to give him all this background so he can make that determination. Okay, and with that I will second and so order.

### **Waterford Park - Southern Indiana Tire commercial permit**

President Jerrel: Waterford Park.

Commissioner Mourdock: Before we do that. Mr. Hynes, I appreciate your comments tonight. As you can tell having sat through a long meeting we often get a lot of statements that aren't backed up very well by facts--

President Jerrel: Very well done.

Commissioner Mourdock: --or so much thoughtfulness, but you were very, very effective in making your case.

Bill Jeffers: Waterford Park. This is actually the north 180 feet of Lot 1 in Waterford Park and it is a site plan which a lot times we take straight to Site Review Committee and sign off on from our office. You guys are a new Drainage Board and we haven't done that yet under your term. I will talk to you about that maybe sometime in an Executive Session or something how we did that before. However, it does represent a change from the original drainage plan, so out of courtesy I thought I would bring it before you. What it is, is a site plan for Southern Indiana Tire Company. It conforms with the other drainage plans for the same subdivision, Waterford Park. Each one of the sites has provided their own detention. In this case they have a detention basin along the north line of the lot and that backs water up about six inches deep into the portions of the parking lot that the engineer shaded blue. I've shaded the detention basin itself in blue. The water then passes through established drainage facilities in the other lots in Waterford Park which also takes it through additional detention basins on its way to Vogel Road and then it flows down the right-of-way ditch along Vogel Road to Stockfleth Ditch. It is a simple plan and it's a good plan and our office recommends approval of the final drainage plan in front of you for the north 180 feet of Lot 1 in Waterford Park also known as Southern Indiana Tire Company.

Commissioner Mourdock: Pursuant to the Surveyor's

recommendation, I'll move approval of Ashley Place final drainage plan.

President Jerrel: I'll second and so order.

**Ashley Place - Final drainage plan**

President Jerrel: Ashley Place.

Bill Jeffers: Has been withdrawn for one month.

Commissioner Mourdock: I'm sorry. I just misspoke. Yeah, I was one down.

President Jerrel: I--

Commissioner Mourdock: And you went with me!

President Jerrel: I went with you. I was reading.

Commissioner Mourdock: That last one was for the final approval for Waterford Park which is the Southern Indiana Tire permit.

President Jerrel: I will second that corrected motion and so order.

Commissioner Mourdock: Now to Ashley Place.

President Jerrel: Ashley Place is withdrawn?

Bill Jeffers: Withdrawn for 30 days.

**Joe Harrison, Jr - Bid recap for annual maintenance of regulated drains**

President Jerrel: Okay. Do we need a motion on taking those bids under advisement or is that just automatically done?

Joe Harrison, Jr.: I need to read them, I guess.

Bill Jeffers: You have to go back to item four.

President Jerrel: Legal counsel to read bids into the record?

Joe Harrison, Jr.: I'm going to go fast, okay?

**Jim Axton, Evansville**

Sonntag-Stevens Ditch  
\$14,400.00

**Jim Axton, Evansville**

Kolb Ditch  
\$2,237.20

**Daniel J. Paul, Fort Branch**

Ditch cleaning  
\$1,286.67

I couldn't exactly tell where and Mr. Jeffers will look at this.

Bill Jeffers: Is that Wallenmeyer ditch?

Joe Harrison, Jr.: I think.

***Rexing Enterprises, Inc., Haubstadt***

Ditch cleaning  
\$318.50

***Ralph Rexing, 300 East Baseline Road, Evansville***

Annual maintenance of Pond Flat Lateral D  
\$641.06

***Ralph Rexing***

Annual maintenance of Pond Flat Lateral B  
\$391.58

***Ralph Rexing***

Annual maintenance of Pond Flat Lateral A  
\$743.54

***John F. Maurer, Wallenmeyer Road***

Baehl Ditch  
\$861.25

***John F. Maurer, Wallenmeyer Road***

Hoefling Ditch  
\$557.10

***Eldon Maasberg, Latterbach Road***

Annual maintenance of Baehl Ditch  
\$1,033.50

***Eldon Maasberg***

Annual maintenance of Wallenmeyer Ditch  
\$1,253.25

***Eldon Maasberg***

Annual maintenance of Kneer Ditch  
\$303.60

***Eldon Maasberg***

Annual maintenance of Maasberg Ditch  
\$154.42

***Big Creek Drainage Association, Owensville Road***

Annual maintenance of Pond Flat Lateral E  
\$434.00

***Big Creek Drainage Association***

Annual maintenance of Rusher Ditch  
\$533.00

***Big Creek Drainage Association***

Annual maintenance of Buente Upper  
\$3,433.00

***Big Creek Drainage Association***

Annual maintenance of Barr Creek  
\$4,134.00

***Big Creek Drainage Association***

Annual maintenance of Pond Flat Main

\$4,791.00

**Big Creek Drainage Association**

Annual maintenance of Pond Flat Lateral C  
\$1,084.00

**Big Creek Drainage Association**

Annual maintenance of Maidlow Ditch  
\$2,241.00

**Shideler Spray Service, Eaton, Indiana**

Sonntag-Stevens Ditch - Broadleaf herbicide application  
\$336.60

**Shideler Spray Service**

Sonntag-Stevens Ditch - Sterilizing ditch bottom  
\$1,380.95

**Shideler Spray Service**

Harper Ditch - Sterilizing ditch bottom  
\$380.55

**Shideler Spray Service**

East Side Upper South Half - Broadleaf herbicide application  
\$2,213.24

**Shideler Spray Service**

Eagle Slough - Broadleaf herbicide application  
\$5,947.92

**Shideler Spray Service**

East Side Upper South Half - Sterilizing ditch bottom  
\$2,047.88

**Shideler Spray Service**

Keil Ditch - Sterilizing ditch bottom  
\$388.55

**Shideler Spray Service**

Kolb Ditch - Sterilizing ditch bottom  
\$721.49

**Downin's Green Grow, Columbus, Indiana**

Sonntag-Stevens Ditch - Herbicide application  
\$272.00

**Downin's Green Grow, Columbus, Indiana**

Sonntag-Stevens Ditch - Sterilizing ditch bottom  
\$1,124.02

**Downin's Green Grow, Columbus, Indiana**

Kolb Ditch - Sterilizing ditch bottom  
\$587.26

**Downin's Green Grow, Columbus, Indiana**

Keil Ditch - Sterilizing ditch bottom  
\$316.26

**Downin's Green Grow, Columbus, Indiana**

Harper Ditch - Sterilizing ditch bottom  
\$309.75

**Downin's Green Grow, Columbus, Indiana**

East Side Upper South Half - Broadleaf and growth application  
\$3,465.18

**Downin's Green Grow, Columbus, Indiana**

East Side Upper South Half - Herbicide application  
\$1,788.48

**Downin's Green Grow, Columbus, Indiana**

East Side Upper South Half - Sterilizing ditch bottom  
\$1,666.87

**Downin's Green Grow, Columbus, Indiana**

Eagle Slough - Broadleaf herbicide application  
\$4,506.00

**Terry R. Johnson Construction, Evansville, Indiana**

Aiken Ditch  
\$2,873.80

**Terry R. Johnson Construction, Evansville, Indiana**

Harper Ditch  
\$1,628.11

**Terry R. Johnson Construction, Evansville, Indiana**

Keil Ditch  
\$1,662.32

**Terry R. Johnson Construction, Evansville, Indiana**

Kolb Ditch  
\$3,198.64

**Terry R. Johnson Construction, Evansville, Indiana**

Sonntag-Stevens Ditch  
\$6,122.19

**Terry R. Johnson Construction, Evansville, Indiana**

East Side Urban South Half - Waterway mowing spring and fall  
\$21,430.02

**Terry R. Johnson Construction, Evansville, Indiana**

Urban South Half - Annual maintenance waterway fall mowing  
\$12,293.80

**Terry R. Johnson Construction, Evansville, Indiana**

Henry Ditch  
\$1,849.86

**Union Township Ditch Association, 1001 Old Mount Vernon Road  
Evansville, Indiana**

Kamp Ditch  
\$334.80

**Union Township Ditch Association, 1001 Old Mount Vernon Road  
Evansville, Indiana**

Happe-Helfrich Ditch  
\$380.94

**Union Township Ditch Association, 1001 Old Mount Vernon Road  
Evansville, Indiana**

Barnett Ditch  
\$83.58

**Union Township Ditch Association, 1001 Old Mount Vernon Road  
Evansville, Indiana**

Edmond Ditch  
\$461.85

**Union Township Ditch Association, 1001 Old Mount Vernon Road  
Evansville, Indiana**

Cypress Dale Maddox Ditch  
\$7,166.10

**Henry J. Bigge Excavating, Bigge Lane, Evansville, Indiana**

Eagle Slough Ditch - Brush and tree removal  
\$7,145.00

**Henry J. Bigge Excavating, Bigge Lane, Evansville, Indiana**

Eagle Slough - Brush and tree removal  
\$7,145.00

I think it is two separate bids. Mr. Jeffers can determine exactly what it is. That should do it for the bids that were submitted to us, to the Drainage Board, in connection with the advertisement.

Commissioner Mourdock: I'll move that we take the bids just read under advisement.

President Jerrel: I'll second and so order.

### **Special Drainage Board meeting called**

President Jerrel: The next item is to set the special Drainage Board meeting to award contracts for April 7th.

Commissioner Mourdock: One question. I think there is something else that we need to do in that meeting in addition to--

Joe Harrison, Jr.: The second reading of the ordinance that was passed on first reading tonight.

Commissioner Mourdock: Okay, I move then that we have a special Drainage Board meeting on April 7, 1997 immediately following the County Commissioners' meeting for the purpose of awarding contracts from the bids just read and also for the second reading of the ordinance as read this evening.

President Jerrel: I will second and so order.

### **Cancellation of March 31, 1997 special Drainage Board meeting**

President Jerrel: Number 14, we will be canceling the special Board meeting for March 31, 1997. Has that been advertised?

Charlene Timmons: No.

President Jerrel: Okay, so we don't need to--

Commissioner Mourdock: Actually, we voted last week in the Commission meeting to cancel that Drainage Board meeting, but just to be doubly safe, I'll move that we cancel the previously scheduled special Drainage Board meeting on March 31, 1997.

President Jerrel: I will second and so order. Is there anyone else who wishes to address the Board? Seeing no one--

Jim Morley: Let me offer one comment.

President Jerrel: Sure.

Commissioner Mourdock: You need to come to the mike.

Bill Jeffers: On that special Drainage Board meeting, will there be two voting members for Phoenix on April 28th or was there previous discussion that someone would be out of town?

Commissioner Mourdock: To my knowledge there has been no discussion that anyone would be out of town on that meeting.

Joe Harrison, Jr.: I think it was just tonight because Commissioner Tuley was out of town.

Jim Morley: Bill mentioned that there were several things that we've uncovered in the ordinance that was adopted two and a half years ago that we need to work on that. If the Board would request that we assemble all of those things, and I know that Bill has got a lot of other things and I would estimate three to four months it would probably take us to pull the comments together and make revisions--

Bill Jeffers: At least.

Jim Morley: In so doing, some of the questions that we brought up tonight are kind of legal questions and we would want the Board to find a way for the attorney to be involved in answering some of the questions that we would incorporate in the drainage control ordinance.

Commissioner Mourdock: Since the draft of that ordinance and the passage of it was before my time as well, I presume that was pretty well the work of a committee, probably the Surveyor, County Engineer, Erosion Control--

Jim Morley: Yeah, mostly right here.

Commissioner Mourdock: Okay.

Jim Morley: And I was his critique.

Bill Jeffers: It was whittled down to two or three people.

Jim Morley: Yeah, there was only a few people that really spent the time to work hard on it.

President Jerrel: It probably started out big and got smaller.

Jim Morley: Yeah, it started real big.

Commissioner Mourdock: I think it is certainly worth beginning to look at again. It seems to me the most likely way to proceed

is to have the two or three people on that committee of knowledgeable experts just list for us what they see as recommendations. Not something that needs to be done by next month, but whatever you feel is appropriate go ahead and list that and then we can start to pursue it.

Jim Morley: Yeah, okay.

### Blue Claims

President Jerrel: Approval of claims for ditch maintenance.

Bill Jeffers: We have none to present. I put that on there just in case some came in before today.

### Old business

President Jerrel: Is there any old business?

Commissioner Mourdock: I have one quick question of Mr. Jeffers. I had a visit this morning from Mr. Bassett of Ward Road.

Bill Jeffers: Hey, he is not happy with Mr. Jeffers.

Commissioner Mourdock: That's...yeah, that's probably true, yeah. Did you...at the meeting when we voted on the implementation of the new drainage law in that situation you offered to go out and survey his property. I realize that didn't mean to go out there with a theodolite and survey it, but have you had a chance to do anything at all on his property? It is his impression that you haven't.

Bill Jeffers: Actually, I volunteered to go out and work with Mr. Tracy when he removed the dirt from the swale to help him establish a flow line that would not leave a wet spot in Mr. Tracy's yard.

Commissioner Mourdock: Okay, alright. That clears--

Bill Jeffers: Mr. Bassett is not happy with me because the Board directed me at the last regular meeting to go out and inspect Mr. Tracy's property to see that the obstruction had been removed from the drainage swale and it was my determination after looking at it twice, once when it was raining and once when it hadn't rained for a few days, that the obstruction shown in the pictures presented by Mr. Bassett had been removed, but because the ground was so wet, it was just after some snow melt and rainfall, that it was left in a very unsightly manner. Clumps of dirt here and there throughout Mr. Tracy's side yard, but all of the sod and dirt that had represented the obstruction was raked up into Mr. Tracy's yard away from Mr. Bassett's yard and it was removed from the swale and Mr. Tracy and Mrs. Tracy paid a visit to our office uninvited, they happened to see me out there. They came up to the office a couple of days later and said, hey, what's going on? I think we've done what we were supposed to do. I said, yes, you have, but I don't think that you are going to leave those clumps like that because your yard is too nicely manicured to leave something like that. They said, no, as soon as the ground dried out they would rake it out smoother so that it could be mowed with the lawnmower. I

believe them. Then Mr. Bassett came to the office and said I was taking their side and he wasn't satisfied and he raised a new issue about some more drainage problems out towards to right-of-way for the road that hadn't been included, in my opinion, in the original petition. I suggested that he call the County Highway Department and see if he could work together with them to direct the drainage from the end of his downspout pipes into the drainage inlet that was provided out in the right-of-way for Ward Road and try to work with the Highway Department to do that and if he had any problem getting help from them to call me back. Then he called Mr. Brenner several times to complain about my actions.

Commissioner Mourdock: Okay, but as far as you're concerned your observation is that the original thing that was the problem has been rectified?

Bill Jeffers: Has been removed--

Commissioner Mourdock: Right.

Bill Jeffers: --from the natural watercourse between the two houses, yes.

Commissioner Mourdock: Very good. Thank you.

<b>New business</b>
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President Jerrel: Is there any new business?

Bill Jeffers: Not from me.

Commissioner Mourdock: I'll move for adjournment.

President Jerrel: Second and so ordered.

Bill Jeffers: It doesn't require a second!

President Jerrel: I know, but I want to make sure I get out of here.

The meeting was adjourned at 9:20 p.m.

**Those in attendance:**

Bettye Lou Jerrel  
Richard E. Mourdock  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Bob Bell  
Dave Garrett  
Myron Rucker  
Alfred Buck  
Jim Morley  
Dave Hynes  
Bill Nicholson  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

**Vanderburgh County  
Drainage Board Meeting  
April 28, 1997**

The Vanderburgh County Drainage Board Meeting opened April 28, 1997 at 6:30 p.m. with President Bettye Lou Jerrel presiding.

President Jerrel: I would like to call the Drainage Board to order, please.

**Approval of minutes**

President Jerrel: The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Mourdock: I'll move approval. Charlene, you might check and see if my mike is on. My switch is suddenly acting funny. Okay, I'll move approval of the minutes of the last month's meeting of the Drainage Board.

Commissioner Tuley: I'll take that to be the March 24th meeting.

Commissioner Mourdock: That's the one.

Commissioner Tuley: I'll second.

President Jerrel: So ordered.

Commissioner Tuley: Yeah, there's another one that's the reason I said that.

Commissioner Mourdock: Okay. I'll also move then the approval of the minutes of the April 7th Special Drainage Board meeting.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Joe Harrison, Jr. - Roll call vote on ordinance establishing a filing fee**

President Jerrel: The next item on the agenda, Joe Harrison on the filing fee.

Joe Harrison, Jr.: If we could have another vote on the ordinance establishing a filing fee regarding the obstruction ordinance. We didn't have a roll call vote last time, so we need a roll call vote at this time to properly pass that particular ordinance, so if we could have that.

Commissioner Mourdock: For that purpose, I'll move that we have a roll call vote to consider the establishment of a filing fee for the state law regarding the blockage in drainage ways.

Commissioner Tuley: Second.

President Jerrel: So ordered and I'll now have the roll call vote. Mr. Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I'll vote yes. For the record, that is IC 36-9-27.4-1.

**1997 Regulated Drain Maintenance Contracts**

President Jerrel: The next item on the...is that all Mr. Harrison?

Joe Harrison, Jr.: Yes.

President Jerrel: The next item on the agenda, Charlene.

Charlene Timmons: I am just submitting the contracts and the bid forms for the 1997 Regulated Drain Maintenance Contracts. They just need to be accepted in and I understand that you guys can authorize them to just be stamped with your name.

Commissioner Mourdock: Which is a stack about two and a half inches thick.

Commissioner Tuley: I'll so move that they be stamped.

Commissioner Mourdock: I will second that.

President Jerrel: So ordered.

**Crossroads Commercial Center, Lots 6C, 6D, 6E and 6F - Final drainage plan**

President Jerrel: The next item on the agenda is the Crossroads Commercial Center, Lots 6C, 6D, 6E and 6F.

Bill Jeffers: This is a final drainage plan for Crossroads Commercial Center, Lots 6C, 6D, 6E and 6F. Mr. Joe Ream is the developer and he has a plat ready to record with language that reflects our review notes. Basically, what he is doing is those four lots that I have outlined in yellow are individual lots that he has potential buyers for a couple of them at this time, and they will submit site plans to the Site Review Committee on a Monday morning in the same fashion as other commercial sites are submitted. Each site will show a grading plan that will detain the required amount of excess storm water on their site before discharging it through the street drainage system and over into Nurrenbern Ditch. The large lot that remains, which is probably labeled 6A, Mr. Ream has not yet found a purchaser for that large lot and it may when sold have to be divided up to fit the purchaser's requirements and so that easement in the middle is still a temporary easement. On the plat Mr. Ream is committing to installing all the street drainage and routing through that easement into a pond and making up for any differential between the required storage amount and what actually gets put in place on each of those lots by building a lake down there along the roadway over by Town & Country Ford.

President Jerrel: Essentially, you're asking...we're making approval if we choose to, but the part in green is what the developer is committing to?

Bill Jeffers: Yes, ma'am.

President Jerrel: The individual site plans will be submitted--

Bill Jeffers: For the four lots only.

President Jerrel: Yeah, and they'll be submitted though for final approval?

Bill Jeffers: They'll be submitted to Site Review Committee--

President Jerrel: Right.

Bill Jeffers: --for final approval and I will check the calculations to make sure that any amount that is not stored on those lots Mr. Ream will store in his detention basin. That will all be reflected on the plat.

President Jerrel: Any questions?

Bill Jeffers: It generally follows the guidelines that we've had for this particular subdivision that's come in three or four lots at a time.

Commissioner Mourdock: Did I understand you, Bill, that Site 6A right now consists of the acreage on both sides of his proposed ditch?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: That's what you're saying he would likely have to divide?

Bill Jeffers: Right and in the last plat that ditch is housed in a temporary easement that he retains the right to move if, say, a shopping center came in and needed that entire acreage he would probably move that ditch or pipe it. We've done this before. I just put those notes on there so that the newer members of the Drainage Board would be able to see what I was talking about when I referred to that. The rest of the subdivision has been developed in the same manner. That's out there with Steak & Shake, Town & Country Ford and I believe there is a hotel being built out there right now.

Commissioner Mourdock: I'll move approval of the final drainage plan for Crossroads Commercial Center, Lots 6C, 6D, 6E and 6F.

Commissioner Tuley: Second.

President Jerrel: I'll so order.

**Crossroads Commercial Center, Lot 6B - Final drainage plan**

President Jerrel: Did that include 6B?

Bill Jeffers: No, 6B is slightly different.

President Jerrel: Okay.

Bill Jeffers: Lot 6B is in the same subdivision. It's one large lot that's been divided up into, I believe, six parcels. However, on this one he already knows more about his buyers and what they need and so he has designated the locations of the detention basins and the drainage swales and shows the routing through those from each lot into the designated detention basin. The only "if" on this particular plat is shown as a possible driveway across one of the narrow necks of the detention basin. That's circled in green there. He wants to reserve the right, if that...that purchaser is still thinking about where they are going to locate a drive. They may want to use the ponds as decorative ponds and put the driveway across one of them, so he has sized the pipe and reserves the right to cross that drainage easement which is fine with us as long the volume of detention is there. With the notes on there...there is a detail sheet that goes with that which shows each of the pipes, the head walls and everything going into Nurrenbern Ditch and we recommend approval of that one as well. Final drainage approval.

Commissioner Tuley: I'll move then for the final drainage approval of Crossroads Commercial Center, Lot 6B.

Commissioner Mourdock: I will second.

President Jerrel: So ordered.

**Metro Subdivision, Lot 14 - Final drainage plan**

Bill Jeffers: Okay, the next one is Lot 14 in Metro Subdivision. It is on Virginia Street near the intersection of Royal Avenue. You are probably familiar with General...American General Financing Building there. There is the golf store catty-corner from that and this is two lots down from the golf store on the back way to Kmart. Now, the reason it looks messy, these generally get approval in Site Review Committee. This is an older subdivision that was approved in the late '80's and the plat carries the requirement that each lot developer construct methods for detaining the water on the lot. This morning in Site Review Committee a lot of these scratch marks were made on that and that's why it looks so messy. They wanted the developer to change the location of his driveways and some other things. Be that as it may, this is a final drainage approval that we're recommending for Lot 14. All the water will be stored in the parking lots six inches or less in depth in accordance with our new drainage ordinance so as not to flood cars. Then when the peak storage is achieved and if it continues to rain and exceeds to 25 year storm, it spills out through the driveway entrances into Virginia Street at no greater than the six inch depth. Having said that, we recommend approval of the final drainage plan for Lot 14, Metro Subdivision.

President Jerrel: One question before I ask for a motion. The changing of the driveways, if any were recommended when they talked about it, that doesn't have any bearing on any of the drainage?

Bill Jeffers: No, ma'am. He will have to use the same

elevations at the drive entrances so that they act as emergency spillways. He just had to move them over so there was 50 feet between those driveways and the ones on the next lot. Some sort of requirement of EUTS.

President Jerrel: Is there a motion?

Commissioner Tuley: I'll so move for the approval...final approval of Lot 14, Metro Subdivision.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

### **MIB Subdivision - Preliminary drainage plan**

Bill Jeffers: The next one is MIB Subdivision. That is someone's initials, that is why they are all capitalized. This is a preliminary drainage plan. They're asking for preliminary approval. It's a commercial subdivision at the intersection proposed to be at the northeast intersection of new Lynch Road and Oak Hill Road. It terminates in a cul-de-sac down in the floodplain. The reason I have the area in the front shaded green, that area will still drain across Oak Hill Road and through Oaklynn Subdivision. It's a much smaller area than currently drains in that direction. They're going to regrade the front lots so that the rest of the subdivision drains through the street system down into the floodplain. They have kindly agreed to put in a drainage basin to serve this even though they're in close proximity to Pigeon Creek. If they were on the south side of Lynch Road we would recommend that they discharge directly into the creek. The only reason we required a drainage basin is because they're on the north side of Lynch Road and there is some concern in the area that the bridge opening for Lynch Road has held water back during flood times. This was an extra expense for this developer, but he was...without an argument he acquiesced to it. We recommend this drainage plan. Like I say, it is preliminary and it only requires a few details to make it permanent. A few little ditch details.

Commissioner Mourdock: I'll move approval of the preliminary drainage plan for the MIB Subdivision.

Commissioner Tuley: Second.

President Jerrel: Before this is permanent, is there anyone that wants to speak to this?

Commissioner Tuley: This is preliminary only.

President Jerrel: Do you want to come up and give your name?

Del Schiavone: My name is Del Schiavone. I reside at 3211 Elmridge Drive which is immediately north of this proposed area. We are in the process...our neighborhood is in the process of trying to block this planned proposal. I can tell you that with

100 year floodplain where they're talking about putting a retaining pond down in that lower 25 acres there is a large area down there that's under water constantly. It's going to cause more problems. It's going to cause mosquito infestation. It's hard to control. The top lot where we've been told now that they're going to regrade it to drain it out into the street, you know, there are problems there now with the water runoff.

Commissioner Mourdock: Do you know, is that their Lot 1 or 7? Or are you referring to both?

Del Schiavone: I do not know. I'm on this side. Yes, my property would be on this side.

Commissioner Mourdock: What are you calling the top lot?

Del Schiavone: I'm sorry, it's this top seven acres.

Commissioner Mourdock: So just everything up here. Okay, I thought you meant one of these.

Del Schiavone: I do. I have no idea what this is.

Commissioner Mourdock: That's the detention basin.

Del Schiavone: Okay. As was mentioned just a minute ago, with the recent high water that we had a lot of the lower area along the edge of the Lynch Road extension from the bridge has been under water. We are hoping that...I don't know. There's got to be a better way. If they are going to drain that area there's got to be a better way because the lower part of Elmridge Drive, I can tell you now, when there is any substantial amount of rain we have flooding in the subdivision that is already there. I know in the field plans for what is proposed in the bottom 25 acres they're talking about raising the elevation anywhere from two to nine feet before they can put any construction in there. Thank you.

John Michael O'Leary: My name is John Michael O'Leary. I live at 3440 Oak Terrace. That's part of the same subdivision. My property is in the surface water runway of runoff that will eventually get to this proposed subdivision down here. I've lived there for 12 years and I can attest to the fact that we've had some surface water flooding in the Elmridge Subdivision. There is a fellow behind me that had to sandbag his house a couple of times in recent years due to the backwater problem. I've been down to this particular area in question and it's very marshy. In fact, in the lot next to mine, which is wooded, there is water standing on an almost continuous basis with a mosquito problem. It just seems to me that this is an area that really needs some special consideration for drainage because of its tendency to be very marshy and low.

President Jerrel: Mr. Jeffers, would you go through the process for the people that have just spoken so that they're familiar with this initial preliminary planning of where they would go from there so they can express their concerns.

Commissioner Mourdock: One thing you might add to that is also

the comments were made about building up nine feet out here in this floodway or whatever. You might deal with that.

Bill Jeffers: The area I think that may be indicated by both gentlemen is the area from the end of the cul-de-sac eastward down towards Pigeon Creek because the area that's shown within MIB Subdivision itself, which does not include the detention basin, but just the area within what is shown as MIB Subdivision at this time which is how many lots?

Commissioner Mourdock: Six.

Bill Jeffers: Six?

Commissioner Mourdock: Seven.

Bill Jeffers: Is all on a hill and not in a floodplain period. The area to the east of that from the end of the cul-de-sac on down behind Elmridge and on down behind Romain Subdivision all the way to Pigeon Creek is in a floodplain. I believe what may be a matter of concern for people living in that area is that there is talk about that area being developed by the same developer, he owns that ground, into apartment projects. That's not a part of this plan that you are looking at right now. It may be a future consideration in front of the Area Plan Commission, but this plan is a seven lot commercial subdivision on a hill.

President Jerrel: Have you shared, or would you share with them though the process now? This preliminary is--

Bill Jeffers: Yes, what we're looking at is a preliminary drainage plan which gives enough detail to show the intent of the developer to concur with the requirements of the drainage ordinance and actually at one time what we're looking at would be enough to have constructed this subdivision with the detention lake and the pipes and everything. We're going to ask for a lot more detail if this subdivision makes it through Area Plan Commission and at that time they'll be talking about traffic patterns, density, the number of trips in and out of the subdivision entrance and a lot of other considerations that might be more pertinent to this location. If it passes, that review will come back to our office with finished details for the spillways, the pipe structures, riprap, concrete ribbon liners in the ditches, pipes that we may feel like need to be extended farther uphill and things like that.

President Jerrel: Mr. Schiavone and Mr. O'Leary, I mean, this is a preliminary tonight and it has received the necessary votes for me to say so ordered on the preliminary approval, but you know the next steps that will happen.

Del Schiavone: I appreciate that.

President Jerrel: Okay, so that you can follow through on it.

Del Schiavone: There's one question.

President Jerrel: Do you want to come up so that we can get you

on the record. Mr. Jeffers--

Del Schiavone: I was just going to ask you if you made some comment about drainage through the cul-de-sac to the retention pond? It seems like I thought I heard you say that. I was just going to ask you if you made that comment? That's going the other way. That's going down the hill.

President Jerrel: No, I think he is talking about the cul-de-sac to Pigeon Creek.

Bill Jeffers: What are you talking about? Down into the basin from the end of the cul-de-sac?

President Jerrel: From the floodplain.

Del Schiavone: Yes, that's what I was asking about. Okay, that was the only reason I said anything about the lower acreage.

Bill Jeffers: Right, I understand.

Del Schiavone: The preliminary plans that we had do not have the retention pond or whatever you want to call it. It don't have that on there.

Bill Jeffers: Well, I'll tell you what, we can eliminate the detention pond if--

Del Schiavone: No, no. I was just saying that wasn't on the plans that we had--

Bill Jeffers: --and let it run straight into the creek right down the Lynch Road right-of-way. I mean, I would. I've been out here while this was under a 100 year flood event. I was called out by the residents of Elmridge Drive who were having to sandbag their homes and one ultimately got flooded anyway. I don't want to go into a long drawn out story, but we put a hold on that house in 1985 and said not to build that house it was three feet too low and they went ahead and built it. I really don't, you know, in response to their problem and the lake area that he is talking about that is real marshy out there, I've seen it under a 100 year flood event and there was more...there was water running out of that marshy area down into the right-of-way for Lynch Road which means that the water was standing at a higher elevation up in this marshy area that these two gentlemen are talking about and running down into the side ditch of this highway that was constructed and is acting as a drain for that area. If they were to cut that...if they would keep those creeks and marshes...or if they would keep the waterways clear back there it wouldn't back up like that. I did not see water backed all the way up to where this detention basin will be at that time and that was last spring, June 9th, during the 100 year event when Pigeon Creek was way up. The creek was one tenth of a foot higher on the north side of the road embankment than on the south side. This is an insignificant amount of water. I thought we had required these people to put a detention basin in there basically to ease some people's minds. Apparently,--

President Jerrel: Would you want to move that down to the end and let those two gentlemen look at if they would like to? I don't think you've seen that part of it have you?

Commissioner Tuley: I think that's what you were saying. This wasn't on the preliminary plans that you were shown? So that's a new addition.

President Jerrel: We'll move it down to the end of the table if you want to take a look at it.

Bill Jeffers: The reason it wasn't on the preliminary plan is our ordinance allows developments within a reasonable distance of a major waterway to empty into that waterway undetained and get that water out of there rather than detain it. That's per sound engineering principals. If this becomes an objection to the development of this...if a mosquito pond is an objectionable thing, it can be removed and just let the water run the Lynch Road right-of-way.

Del Schiavone: Okay, thank you very much.

Bill Jeffers: Yes, sir.

President Jerrel: It was approved.

Commissioner Tuley: On preliminary.

President Jerrel: We voted and so ordered.

Bill Jeffers: It can be removed in the final. In other words, if they come to Area Plan and that's a (inaudible), they can do it in the final plan.

#### **Burkhardt-Lynch Business Park - Preliminary drainage plan**

President Jerrel: Okay, the next item is the Phoenix...I mean, Burkhardt-Lynch.

Bill Jeffers: Burkhardt-Lynch Business Park is a large chunk of acreage on Burkhardt Road north of Old Boonville Highway. The northern boundary of the business will be the new Lynch Road interchange with I-164 and the east boundary then would be I-164. This plan is a preliminary drainage plan seeking approval prior to going to Area Plan Commission for final...or for additional review based more on traffic flow and other concerns. What you are looking at is a drawing that I asked the engineer to develop that would show in blue the ditches that are picking up and conveying the storm water to a center lake which is the rectangular area also shown in blue in kind of the north middle of the subdivision. All the storm runoff, except for a very small amount on some of the fringes, will be taken into the interior of the subdivision, stored in the lake and discharged into the existing natural channel at the north end of the subdivision and thence it would go under Lynch Road into the natural drain way that ends up in Boesche Ditch. One of the unique parts of this particular plan is that the developer's engineer has totally ignored the use of Burkhardt Road side ditches for the conveyance and storage of water. He is taking

all his water into the middle of the development and storing it in his own lake. That means that whatever the County Engineer and his consulting engineers come up with for a plan for the widening of Burkhardt Road will not affect or be affected by this drainage plan. They'll be free to construct their roadway and the drainage for their roadway independent of this drainage plan. The only impact this drainage plan will have on roadway construction will be when it goes under Lynch Road there will have to be a pipe to carry that flow under Lynch Road. They have reduced their outflow so that a 50 year storm will be released at a ten year rate because it then goes under I-164 and the Department of Transportation requires that it be choked down to a ten year rate. You're actually getting a more strict control of storm water through INDOT regulations then you would our drainage ordinance. This is a preliminary plan and we're recommending approval of it. Subsequently we will get a final drainage plan with much more detail.

President Jerrel: Instead of voting first, is there anyone here to speak concerning this Burkhardt-Lynch Business Park? Okay, hearing none, is there a motion?

Commissioner Tuley: I'll so move for the preliminary approval of the Burkhardt-Lynch Business Park drainage plans.

Commissioner Mourdock: Second.

President Jerrel: I'll so order.

**Phoenix Industrial Park - Final drainage plans**

Commissioner Mourdock: Madam President, since the next one on the list is the Phoenix Industrial Park and as I have expressed before I may have a potential conflict at some point with that and I am going to ask to be excused. I'll go back to my office and be ready when you call me.

Commissioner Tuley: Get on out of here.

Bill Jeffers: Phoenix Industrial Park. This is Phase I and it contains approximately 105 acres. It's at the southwest quarter, basically, the southwest quarter of their total parcel. It is bounded on the south by Ruston Lane, on the east by State Road 57 and on the west by Old Petersburg Road. I've outlined the boundary in black magic marker. I've circled in light, kind of a florescent, green I have circled the individual lots and each one of those shows you how many acres is in each lot. Then I shaded in orange the interior streets that they intend to build. You have one street coming in from 57 that T's and then you have a cul-de-sac to the north and a cul-de-sac to the south. The rectangle at the entrance to 57 is a siltation control and retention basin to be constructed by the developer.

Commissioner Tuley: The diagonal stripe?

Bill Jeffers: Right. Then there is also yellow rectangles at each end of each cul-de-sac. Those are also siltation control during the period of construction and detention basins to be

constructed by the developer. There's a central 40 foot wide drainage easement that curves through the bottom half of the project and because the developer is unsure at this particular time of the exact requirements of an industry that would locate on that large lot, he wishes to retain the right to make that a temporary drainage easement that follows the natural stream and at such time as the industry that locates there submits their final drainage plan to us the permanent location of that easement will be determined by their needs, where they place their physical plant, where they place their parking, etc. Also, each...the detention that he shows for his initial work and the construction of the roadways and the initial grading and so forth, basically, that detention volume is generated by the roadways and some other initial work that he is going to accomplish, Phoenix Land Company. There is some surplus detention volume that will be available to industries that locate there, but for example, they're talking about an industry that would be in the neighborhood of nearly one half million square feet, you know, 400,000 square feet. That is like eight or nine acres of rooftop which would necessitate quite a bit of acreage in hard surface parking lots, etc. When they determine exactly how much...I mean, they can't meet the exact requirements of our ordinance that say show us the location of all anticipated hard surface because they don't know at this time. However, the value of locating an industrial subdivision in our county might have a bearing on the Board's desire to waive the exact requirements of our ordinance and we're recommending that you do so and that each lot come to us with an individual site drainage plan that subsequently meets the exact requirements of our ordinance at the time it is submitted. What they have submitted to us with the notes that I have on the drainage plan which basically I am asking for an off-site easement...an off-site easement in land they own on the north side of Phase I to make sure there is sufficient width for a channel there. I think that is the only note I have on there. Oh, and that when they decide that the railroad spur would extend across that waterway to bring us a detailed bridge plan showing the calculations they used to determine the size of the culvert or bridge that they use there. They don't know if that railway spur is going to have to go across that waterway yet. It may be piped. The waterway may eventually be piped anyway. With those two notes our office recommends approval of the final drainage plan for Phase I in Phoenix Industrial Park. The developer's engineers are here and, of course, there may be somebody in the audience.

President Jerrel: I would say is there anyone in the audience that would like to speak to this? Mr. Tubbs, do you want to begin and then if somebody has specific questions.

Jack Tubbs: For the record, my name is Jack Tubbs, Manager of Commercial Development for Phoenix Land Company. To kind of follow up on what Mr. Jeffers stated, the drainage design is based on, as you see, the roads, the disturbances that are going to occur for the Phase I construction, the sedimentation basins and some capacity for future drainage concerns. Within our covenants, building guidelines and restrictions as well as what we are going to record on the plat document, we're going to state as each lot is sold, developed, that the individual lot

owner is going to be responsible for their own on-site drainage. That philosophy is being used because we want to keep as open as possible the type of industries that we are going to attract. That is...this is a safeguard that we're trying to build into it. If an industry comes in that is 10,000 square feet they're going to be responsible for their own on-site retention/detention water storage. On the other extreme, if there is an industry that comes on board who is 300,000 square feet, 400,000 square feet, they're going to be held to the same standards. They're going to be held responsible for their own on-site drainage. At this time, I would like to ask Mr. Mike Wathen of the Soil and Water Conservation District to comment briefly on the project concerning soil, sedimentation and erosion concerns.

Mike Wathen: Mike Wathen, Soil and Water Conservation District. I met with the Phoenix and RQAW representatives last week, myself and Lynn Miller, who is the DNR representative for this area. We went over the erosion control plan that they submitted and the necessary corrections that they need to do have been made. We have a copy in our office and as far as we're concerned we are okay with what they are trying to do.

President Jerrel: I have one more question. Did Mr. Jeffers leave?

Commissioner Tuley: He's over behind us.

Charlene Timmons: Do you want him?

President Jerrel: I was just going to ask him to clarify what he meant when he said whoever bought the lot would come back with a final drainage plan. Is that correct?

Jack Tubbs: What we're asking is that as each individual lot is purchased, that individual lot owner is going to have to go through the Site Review, the Area Planning Commission, and then the ultimate drainage approval for those specific lots.

President Jerrel: Okay. Is there anyone in the audience that would like to speak or has a question that they would like to ask of Mr. Wathen or Mr. Tubbs? Okay, hearing none, is there a motion?

Commissioner Tuley: I'll move for final approval for the drainage plan serving the initial installation of drainage facilities serving the streets and conveying off-site drainage through the first phase of Phoenix Industrial Park with the understanding that as lots are sold the individual lot owners will come in and submit final plans for approval for the Phoenix Industrial Park.

President Jerrel: I will second and so order.

**Slate Creek Subdivision - Preliminary drainage plan**

Bill Jeffers: I have a plan here that is not on your agenda. It's Slate Creek Subdivision out off St. Wendel Road near Hillview Road. The reason it doesn't appear on there on your

agenda is it's a reaffirmation, basically, of a drainage plan that you passed in the February...preliminary drainage plan you passed in the February meeting as a preliminary plan there, too...there, also. The reason it is coming back to you today is that the Area Plan Commission sent it back for some minor revisions of lot lines and designated some areas to be used as, oh, field bed areas because this is going to be on a field bed system, they're large lots. It still, at this time, is a preliminary plan. I have the drainage easements marked in yellow because they will have to come back with variance and dimensions to show their exact locations. I have that orange stripe running down the middle of the road because we're going to want to see the roadway drainage that is proposed for it with side ditches or whatever. A couple of other little notes there. The size of the pipe show a head wall. The last time it was here Ms. Jerrel had asked for the exact size and location of the detention area and that is now shown. I believe that's 120 x 150 rectangle immediately on the west side of the road. Then you see my notes in green. With those notes we recommend approval of the preliminary plan for Slate Creek Subdivision so that it may go back to Area Plan Commission Wednesday.

President Jerrel: Is there anyone here that would like to...yes, sir.

Unidentified: I guess I better get up closer.

President Jerrel: Well, why don't you just come over here to the end and you can use this one right here.

Commissioner Mourdock: Or you can hand him the microphone.

Commissioner Tuley: Yeah, we can just hand you a microphone.

Bill Jeffers: You can use this one here.

Jack Miller: Yeah, my name is Jack Miller and I live next to the property that adjoins this here. I was in the hospital and I couldn't go to the first meeting, but I've got some questions that I would like to ask here. I talked to Louise Minnette before I went to the hospital and she told me that they was going to put modular homes in here. All of this property out in here including myself these houses are \$150,000 to \$200,000 and I can't...I'm not against the subdivision, don't get me wrong, but I don't think that she should be allowed to put these modular homes in this area where there are \$200,000 houses because that is going to lower the value of our property. I think if the Board agrees to let her do this I think that we're within the law to call back the Assessor and have them to reevaluate our property because that's going to knock our property...the value of our property down. I don't understand, they got this road in here the way it is drew it looks like that this property on this road is level, but it's not. When you come down through here on this first...on these five acre plots there is a hill here and there's a hill down here and if you was to lay a board across there and a level there's a 30 foot drop that goes into the center there.

President Jerrel: Let me show you this. Let me bring it over

here. Mr. Jeffers, would you want to show them? This is only drainage. As far as the development, it has to go back to Area Plan. We're not doing anything--

Unidentified: It looks like the drains--

Jack Miller: Well, they got drains...they got drains here on everybody except theirselves. Right here is my property. My property is three acres right here. This drain that comes down on the side of this road he's cut off right here and he's running this water on me.

Bill Jeffers: He's taking this down...that indicates it's going downhill through a pipe.

Jack Miller: No, no, no. It will not do that. My ground is higher than this.

Andy Easley: How can we run water uphill?

Jack Miller: You can't, that's what I am saying. How are you going to run this water this away? Where is the water coming from?

President Jerrel: Are you higher?

Andy Easley: It's going south.

Jack Miller: Where's it coming from? Where's this water coming from?

Andy Easley: It's coming from uphill.

Jack Miller: No, no, no. It does not drain. I've been out there for 20 years.

Andy Easley: No wait a minute. The water...we have to receive the water. It comes uphill and goes south. It's going to go through a drainage easement and it runs where it has always run--  
-

Jack Miller: Mr. Easley, it is not going to come this way. There's a creek down here. This water from here runs down in this creek and this water here runs down this. There's a valley in here that is 30 feet deep.

Andy Easley: I understand that.

Jack Miller: Well, what are they going to do about this drainage? Draining this water on everybody? You're draining it from here because this is not going to take that rainwater. We had some hard rains and I'm telling you I know this property. I've been out there for 30 years. I'm telling you that this water is going to spill over in the drain thing you've got here on the side of this road and it's coming down this away and that's the reason you put this rain drain in here. You're draining this down on Mr. Duerson. This is not going to work because this land is about that much higher than what Mr. Briel's is. There's no water going to come

down this way.

Andy Easley: Which way does your runoff go? South or north?

Jack Miller: It goes this way. It goes west and runs in the creek and comes on down and goes down into Mr...there's a big creek down in here. This water...you're running this water...this water that is going to come down this road is going to run across this property and that's why you've got this rain drain in here. You know that it's going to run this way. It's running south because all this land goes south real quick.

Andy Easley: It's going to flow at right angle to contour lines.

Jack Miller: That's right.

Andy Easley: Mr. Mourdock understands it, I understand it, Mr. Jeffers understands it. I'm not sure you understand it.

Jack Miller: I do, but you're going to run this down on Mr. Duerson. You're running all this water off of their property onto everybody else.

Andy Easley: It runs where it has always run. We're going to retain the difference in the runoff so there will be no increase in the runoff. There will be no increase in the amount of water running onto the adjacent properties. Mr. Jeffers has seen to that.

Jack Miller: How you going to build houses down in here? This water is going to run on top of these houses you're going to build down in here.

Andy Easley: No it isn't.

Jack Miller: I swear to God it will. Where is it going to go to?

Bill Jeffers: It will go through this little branch of the creek until it joins down here to that larger creek that you are talking about.

Jack Miller: The creek is down in here further.

Bill Jeffers: Well, this is the hill that you are talking about. Over here is where it drops down 30 feet in this direction and 30 feet this direction.

Jack Miller: Down in here is Mr. McIntosh's property, Senior and this is Junior, and you're saying that this water is going to come down on this rain drain you've got here and make a circle and it ain't going to spill over and go down in here? I don't believe that.

Bill Jeffers: No, from this circle it will come down to this creek and from this way it will come down this way and then it will go down the creek.

Jack Miller: Yeah, but you've got designated places in there where they're going to build houses. You can't build no houses

in here.

Andy Easley: No, we won't build houses in the yellow area. They'll build them--

Jack Miller: No, I mean on both sides of this yellow area.

Bill Jeffers: Well, they've got five acres here to find a high spot to build a house and five acres over here.

Andy Easley: There is five acres.

Jack Miller: Let me ask you a question. I'm going to speak my piece--

Bill Jeffers: Well, sure.

Jack Miller: --and I'm telling the truth. But I notice that you've got a septic tank system right here. How are you going to get this...what are you going to do with this? Are you coming from this lot under that road and going and putting a septic tank system on it?

Andy Easley: Yes, it's been done before and the Health Department approves of it.

Jack Miller: Under that road?

Andy Easley: Yes.

Jack Miller: The Health Department approves this?

Andy Easley: Yes, yes.

Bill Jeffers: Well, now we are getting into issues that should be handled in the Area Plan Commission. In other words, this is a drainage...I'll tell you what we'll do.

Jack Miller: Well, this is going to be a drainage.

Bill Jeffers: This has nothing to do with drainage. What we'll do for you if you would like to come to the final drainage hearing or if you would like to come to our office and look at it before the final hearing, is we'll go ahead and pull out a quad sheet or a section sheet that shows all the adjacent lands so that we can talk about which creeks...you know, we can point directly to which--

Jack Miller: I know. I hunted all this property.

Bill Jeffers: I understand that you know, but I want us all to understand it.

Jack Miller: I've been on this property for 18 years.

Bill Jeffers: So if there is some question about what the land looks like over here on your property or down on Mr. McIntosh's property.

Jack Miller: There's a creek. There's a creek that comes right down through here. It comes from across the road over (inaudible), comes down here, it goes down and goes through here. I'm telling you, I've seen water knee deep coming through here in this creek. I've seen it knee deep.

Bill Jeffers: I'm sure. He's got like a 36 inch pipe he's putting underneath there.

Andy Easley: You are uphill. You are uphill, you agree?

Jack Miller: Yeah, mine is.

Andy Easley: You're uphill. It is not going to cause you any problems. It's not going to cause you any problems.

Jack Miller: What I am saying is it's going to cause somebody some problems in here.

Andy Easley: Well, we will handle the water that is on their property.

Jack Miller: Well, now how many...I notice you got this blocked off in five foot acre lots. Now, how many houses are you going to put in here?

Andy Easley: One.

Bill Jeffers: One house per five acre lot.

Andy Easley: One house per five acres.

Bill Jeffers: We have been assured--

Jack Miller: Now are you talking about a modular home or are you talking about--

Andy Easley: I do not know what they're going to build. I have not seen their architectural plans. She...and I'm not sure what she is going to build.

Jack Miller: Well, that's what she told me.

Andy Easley: She may be very well. If she's telling the truth--

Jack Miller: That's what I'm in here for. This lot right here, you can't build nothing on this lot no more. There's a septic tank system right there. Mr. Briel's got it and you can't put but one septic tank system on 2½ acres.

Andy Easley: That's correct.

Jack Miller: That lots dead.

Bill Jeffers: Well, there is an existing house on that lot, sir.

Jack Miller: That's dead.

Andy Easley: That Mr. Briel. That's the--

Bill Jeffers: That house will stay on that lot.

Jack Miller: But that's a dead piece of property right here. You can't put another house on that.

Bill Jeffers: Right. You can only have one house per lot in Vanderburgh County on R-1.

Jack Miller: I know that. That's just what I got through saying.

Bill Jeffers: Right, well, that is the only house that will be there. It's already there.

Jack Miller: So you ain't got seven lots, you've only got six.

Bill Jeffers: Well, this fellow he can live in the house that is already there.

Jack Miller: But you specify that you got seven lots in here and you don't have. This is not a lot, a buildable lot. You can't put another septic tank on there.

Bill Jeffers: It's Lot 1.

Jack Miller: That's right, it's dead.

Bill Jeffers: It has a house on it.

Jack Miller: I know, but that's a dead lot.

Bill Jeffers: Right, nothing is going to change on that one.

Jack Miller: You specified that there are seven lots in here.

Andy Easley: It has a house on it.

Bill Jeffers: It's the parent tract, is what you actually call it.

Jack Miller: There can be no houses put on this 2½ acre.

Bill Jeffers: Right, it's already there.

Andy Easley: No additional houses.

Jack Miller: Right, so that means you've only got five lots...six lots.

Bill Jeffers: Well, you can count them however you want to. It's going to go in the vault as a seven lot subdivision.

Andy Easley: There could be six additional houses over the next five years.

Jack Miller: Okay, now Louise told me that this was a family deal--

Andy Easley: That's right.

Jack Miller: --that no outsider could buy into this.

Andy Easley: That's my understanding.

Jack Miller: Okay. I noticed on here that Louise is not the owner of this property. Mr. Briel is.

Andy Easley: Mr. Briel is. He is going to deed it to her after the subdivision is approved.

Jack Miller: Well, then I am saying this, if you go along with that to protect the rest of the property owners out there and she says that no outsider is allowed to buy into this property, never, but I'm going to tell you what happens. Louise has to sell her house right now in the next two or three months because they got a divorce, right?

Andy Easley: I believe she's--

Jack Miller: Now say that Mr. Briel gives each one of these kids a lot back here.

Andy Easley: Yes.

Jack Miller: One of them is married. Louise's daughter is married. What if they buy one these lots back here...or they get a lot give to them back in here and this septic system is sitting here and she gets this lot here. Say, she gets this lot. They don't get along and they get divorce two years--

Bill Jeffers: The septic field is part of the covenants and restrictions for the subdivision. When they buy this they know that is on the lot and they have to--

Jack Miller: They're not buying anything. It's given to them.

Bill Jeffers: Well, whatever. You want us to rename it Peyton Place Creek or something?

Jack Miller: Uh? Do what?

Bill Jeffers: Do you want us to rename it or something?

Jack Miller: I didn't understand him.

President Jerrel: Well, the main point is before anything final is done if you could...can you give Mr. Jeffers the number so that he can contact you about letting him look at this final when this is ready to go before Area Plan?

Jack Miller: Well, I've got to go back to the hospital.

President Jerrel: But I thought that...because for a preliminary this is something this evening that has to go back to Area Plan. If we could have...you know--

Bill Jeffers: Could I deliver this to this lady here and she could bring it to you?

Jack Miller: That's my wife.

Bill Jeffers: Your wife? Could I deliver the information to her and she can get it to you?

Jack Miller: I'm just saying I think you guys are going to get yourselves into some trouble.

Bill Jeffers: We might. I've been spanked before.

Jack Miller: Uh?

Bill Jeffers: I've been spanked before.

Jack Miller: Well, I have, too. I'm 70 years old, but I don't want to get spanked again.

Bill Jeffers: I don't either unless it is fun!

Jack Miller: What I want to ask you, do you think that's fair of me being a property owner and everybody else out there? About these modular--

Bill Jeffers: You should bring that up in Area Plan Commission.

Jack Miller: Well, I told you I was in the hospital.

Bill Jeffers: Well, send a representative. In other words, your wife could bring it up in Area Plan Commission.

Jack Miller: She was at the hospital. I was in there for 31 days and she was right there with me. What I am saying, I'm saying I don't think...I think this should be hashed out and no problems come up like this. I think that's what is going to happen.

Bill Jeffers: Well, I appreciate your concern and we are definitely--

Jack Miller: No, I don't think--

Bill Jeffers: --we're going to rake Mr. Easley over the coals for a good drainage plan.

Jack Miller: Well, I will, too before it is over with.

President Jerrel: Well, will you be sure and let them know?

Bill Jeffers: Yes, ma'am.

Jack Miller: I don't think that you should sit a \$35,000 modular home by people who've got \$200,000 homes. I don't think that's right.

President Jerrel: He'll get back with you before because it will go to Area Plan before anything happens.

Rita Miller: If you don't catch us at home just leave it on the machine. We've got a lot of extensive medical stuff going on

here.

Jack Miller: I sure thank you.

President Jerrel: Thank you. Alright.

Rita Miller: Thank you.

President Jerrel: Is there a motion for the preliminary plan?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

### Discussion regarding Homeowner's Associations

Bill Jeffers: Okay, out of consideration of Mr. Buck and I think one of the reason Mr. Easley is also staying here is to hear if there has been a determination by Mr. Harrison with regard to having a Homeowners Association that does not have to be incorporated with the Secretary of State. Slate Creek may also be one of those smaller subdivision that they would like to use the same method.

President Jerrel: Mr. Harrison?

Joe Harrison, Jr.: Yes, I've got a memo that I should have copied a couple more of them off to the Drainage Board. We did look into the issue as to whether or not the Secretary of State's Office or whether the county ordinance requires that a homeowners association be approved by the Secretary of State's Office and no according to the ordinance. The ordinance does not specifically state that a homeowners association here in Vanderburgh County has to be incorporated with the Indiana Secretary of State's Office. However, and I'll let you have this memo, I would suggest that in order to meet the requirement of the ordinance which requires that a homeowners association be established that on the subdivision plat language stating that lot owners comprising the homeowners association that each of those owners share equally in the cost of maintaining the detention basin which you are going to propose for the Knob Hill Estate area subdivision and any owner may collect maintenance costs on behalf of the association. Failure of an owner to pay prorata share of cost upon demand may result in collection action and recovery of court costs and reasonable attorney's fees on behalf of the association should one of the lot owners not pay his or her fair share of the homeowner association costs. I'll let you have a copy of that memo, but that would need to be placed upon the subdivision plat for notice to all. That's basically what you and Mr. Morley asked.

Al Buck: Right, that's what we were asking.

Joe Harrison, Jr.: You might go up to the mike, sir.

Al Buck: I'm Al Buck, developer of Knob Hill Estates Subdivision. This is what we were asking for, Mr. Harrison, and

I appreciate very much if the Board sees fit to approve this.

President Jerrel: Yes.

Commissioner Mourdock: I don't know that we actually need to approve anything. Do we, Joe? At this point?

Bill Jeffers: That it be incorporated into his final drainage plan.

President Jerrel: Okay.

Joe Harrison, Jr.: I think that is fine. You're going to see more of these probably down the road.

Bill Jeffers: Right. He wants to record a plat.

President Jerrel: Right. Is there a motion to incorporate?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

Al Buck: Thank you.

Bill Jeffers: So what I will do in that case is when his plat comes in if it has the language that Mr. Harrison recommends then we'll sign off on it.

Commissioner Tuley: Okay.

Bill Jeffers: Is your next item the Ward Road?

President Jerrel: Well, have we talked about Star, Spring Park, McJohnston Place, Sycamore Hills?

Commissioner Tuley: We're not going to talk about those.

Commissioner Mourdock: No.

Bill Jeffers: I had those on there that those were other subdivisions that were awaiting your approval of some kind of a plan so that they be able to go forward to APC, but I had not received any plans as of noon Friday when I turned my agenda to Tony. I mentioned that those might come up, but other than Slate Creek they did not.

President Jerrel: Do I have the only copy of your report?

Bill Jeffers: I just gave the original to Charlene and then I faxed a copy to John Stoll's office which maybe the one you have.

President Jerrel: I have that one. I would like to get a copy.

Bill Jeffers: I have some other copies if you like.

President Jerrel: Well, I want it and how about Valerie's? Do they have hers?

Bill Jeffers: I have a copy of Valerie's that she faxed to our office.

President Jerrel: If you could just make a copy of Valerie's for...I met with Valerie and about seven residents...maybe more than seven. There might have been eight people there today and I want an opportunity to look at this and I think if it's alright, unless there is some items you want to spell out specifically to us, I think maybe would we like to look at it.

Commissioner Tuley: Take it under advisement and read it, yeah.

President Jerrel: To read it and if we have any questions, is that...?

Bill Jeffers: Sure. You had asked that we file a report with you and it's at your pleasure what you do with it.

President Jerrel: Right and then Valerie today...we spent time out there and we did talk to neighbors. I don't know how productive, but it was, you know, they're very familiar and they have a lot of concerns so let's see if there is a motion to take this under advisement.

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: Alright, so ordered.

<b>Old business</b>
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President Jerrel: Any old business?

Commissioner Mourdock: Just one bit of correction from earlier in the meeting. I had made the motion, I believe, and Mr. Tuley had seconded regarding the March 24th minutes and, in fact--

President Jerrel: He was--

Commissioner Tuley: I wasn't here.

Commissioner Mourdock: He was not here for that meeting, so I guess formally--

President Jerrel: So that will have to be corrected, so I'll call again for approval of the minutes.

Commissioner Mourdock: From March 24th I will say I move such approval.

President Jerrel: I will second and so order. Okay, here's the other two.

Commissioner Mourdock: I have no other old business or new business.

President Jerrel: Pat?

Commissioner Tuley: I have none, old or new.

**Correspondence**

Bill Jeffers: I have some that may be under the heading of correspondence. Okay, the first sheet is the property owners in Oaklynn Park, Section 1 Subdivision which is recorded on Plat Book O, Page 197. It shows the lot owners to whom we sent the letter.

The second and third page is the letter which is a friendly letter advising, in this case it happened to be the residents of 2828 Nicole that came out of the computer as the example although they might not be in violation of anything, I should say, it's just that is what the computer spit out for an example, telling them that the drainage ditch along the north line of their property is Sonntag- Stevens Ditch which is a regulated drain in Vanderburgh County and advising them that they may or may not have objects, fences, yard barns, shrubbery, what have you within the easement set aside for the maintenance of Sonntag-Stevens drain. In some cases and obviously the reason we sent it to all of these lot owners is that each one of them abuts the ditch and only a few of them currently are in violation of the statute, but we wanted to be fair to make sure that anyone following the poor example set by their neighbor had prior warning. What the bottom line...the problem is that we anticipated this problem before the platting of Oaklynn Subdivision. Anticipating the problem we asked the developer to set aside a 40 foot drainage easement along that north line and to show on the plat that nothing could be placed in that drainage easement whatsoever without approval of the Drainage Board. We also asked the developer to include in the covenants and restrictions that each property owner is given that certain plans are on file and that those plans set aside that 40 foot strip for the maintenance of a legal drain and not to put anything in there. There's more language. It is all attached here in the attachments that I gave to Ms. Timmons. Okay, what the real problem boils down to is that we've spent about \$20,000 in the last ten years on one quarter of a mile of that ditch from one end of this subdivision to the other prior to the establishment of that subdivision, Cloverlawn Subdivision, on the north side of the ditch and the complaints came in from Cloverlawn that water stood back there, mosquitos, weeds, you've heard it all. We spent about \$20,000 in that one quarter of a mile in less than 10 years and we got that ditch to drain completely dry in between rainstorms. I mean, within a day or two it was dry. It's a very, very flat grade there. It's very critical, it's very hard to maintain it. I have a signed document on file in our office where the developers of this subdivision attested that they would personally notify each property owner not to...to maintain that area back there as a flat maintenance pathway and not to put any obstructions in it. They also agreed to do certain repairs as the went along and make certain improvements to that ditch as they went along and the whole system has fallen apart on their behalf. On their part it has fallen apart. There's ducks living in the ditch back there. There's pools of standing water. There is silt running of the site clogging our ditch and ruining the

improvements we made on that ditch over the years. There is mud and gravel all over the streets of the subdivision. The drainage facilities have not been completed within the subdivision as promised. They've located utilities, sewer clean outs, yard barns and every manner of obstruction in the easement. They're fencing off the detention basins. They haven't completed the detention basins. They're piping ditches without approval. I've gotten nowhere by sending these letters, but I did want you to be advised that I had sent this letter. The problem is not getting back there to mow the ditch. We can still mow the ditch. I got in a heated argument with one of the residents in Casino Aztar's parking garage Saturday night. He thinks we don't have the legal right to mail him a letter like this.

Commissioner Tuley: Is he an out of work lawyer that works for the Casino?

Bill Jeffers: No, his wife works for the County Treasurer though.

Commissioner Tuley: I didn't buy a house out there, so I know it ain't me.

Commissioner Mourdock: As he puts on his glasses.

Commissioner Tuley: I'm putting on my glasses trying to see these names.

Bill Jeffers: It started off as a friendly conversation. My wife graduated with this lady from North High School and, oh, are you going to the reunion this summer? Blah, blah, blah, you know. When he found out my name all hell broke loose!

President Jerrel: Went downhill from there?

Bill Jeffers: But anyway, I told him don't call us if he has mosquitos this summer, basically, is how the argument ended. We got a real problem out there and no one seems to want to enforce their part of it whether it be the developer or various agencies of the county and state government. My inclination is to let it go all to hell and when they call to have their weeds mowed, sorry, you can't get in there. I don't guess that's the professional approach, you know?

Commissioner Mourdock: Is the logical conclusion of this, Bill, not the receipt of \$100 filing fee from somebody a few years down the road?

Bill Jeffers: Oh, no, this is a regulated drain and that ordinance does not apply to regulated drains. We can give them a ten day notice right now and go tear that fence down ten days from today.

Commissioner Tuley: Have you tried to work with the developer?

Bill Jeffers: Yes. I tried to hold back on his next development and not give him approval and that didn't work. He brought a lawyer in.

President Jerrel: Well can we have a lawyer write to the homeowners?

Bill Jeffers: We can take this under advisement. I mean I said in here that notices would go out on April 22nd, but I went out there...I was thinking I would go out there and find a couple of fences and I could notify those people. We I went out there the problem just flabbergasted me. I hadn't see it for about six months. It was unbelievable. You know, I mean, here was ducks paddling around in the ditch that used to drain dry and yard barns, fences everywhere. Mud everywhere. So I would rather not send that. The reason I am bringing it to you is I failed to send the notice on April 22nd because it just got too complicated. We can mow the ditch today, you know, this spring. The problem is going to arise when people start calling up and say our ditch doesn't drain anymore and we try to get an excavator in there and can't do it.

Commissioner Tuley: Can't do it.

Bill Jeffers: Then by that time everybody will have fences up and I doubt that the developer would be able to get a backhoe in there to clean things up as he promised he would do in writing.

Commissioner Tuley: This is the one in which the surrounding neighborhood came in and had quite a lot of concern?

Bill Jeffers: I stood here in front of you and said I had never heard of this developer doing an inferior job and I highly recommended--

Commissioner Tuley: Yeah, that's the same one.

Bill Jeffers: Right.

Commissioner Mourdock: But in the end it wasn't the developer. I mean, the developer didn't do a bad job from what I am hearing you say. It's the individual homeowners. Okay.

Bill Jeffers: The developer has not followed through with his part of it either.

Commissioner Mourdock: Okay.

Bill Jeffers: Including the installation of certain required--

Commissioner Tuley: You talked about mud and stuff in the streets now, so that's not doing something right.

Bill Jeffers: Right.

President Jerrel: Who is the developer?

Commissioner Tuley: Dan Buck.

Bill Jeffers: He has a partner in this.

Commissioner Tuley: He does have a partner? That wasn't him

that just left was it? That was his dad.

President Jerrel: That's his dad.

Bill Jeffers: No, that's his dad. No, totally different operation.

President Jerrel: Who's the partner?

Bill Jeffers: Brad Sterchi and Dan Buck.

President Jerrel: One of the guys that owns a couple of the lots yet?

Commissioner Tuley: Yeah.

Bill Jeffers: He's the one that actually built the houses all along the lots adjacent to the ditch shown on the--

Commissioner Tuley: He owns 24, 34--

Bill Jeffers: All the ones that you see listed were developed by Mr. Sterchi. That was his part.

President Jerrel: Well, we need to do something. It may have to be something distasteful, but we've got to do something. If we don't--

Commissioner Tuley: Pay now or pay later.

President Jerrel: That's right.

Bill Jeffers: Anyhow, rather than belabor it at this time, I just wanted to let you know what was going on so that if you hear I went off my rocker or something you'll understand why.

Mike Wathen: Mike Wathen, Soil and Water. I did speak to Bill about this. I also went out there with Lynn Miller last week from DNR and I am trying to think of a professional way to put this. I think Lynn did not feel that action would be taken in a timely manner by the enforcement agency that he reports to, so he's got many, many on the books and quite honestly not a whole lot has happened with them and I think he just felt like this was just going to be another one. It wasn't that he or I disagreed with Mr. Jeffers' findings, it was just that he felt that he couldn't get anything done. What I intend to do under the local ordinance which makes the property owner responsible as opposed to the developer now a lot of the lots that contributed to the problem have since been sold so the developer is no longer the property owner, is, I guess, work with it to some extent on a case by case basis, but I think...Bill, would you not agree that a lot of what has been done was done prior to the people buying all the houses? Probably the developer was at fault at some time and space in the past and at that time we didn't have a local Vanderburgh County Erosion Ordinance or it could have been dealt with then. So, for what that is worth.

President Jerrel: If the rule said you can't do this in the plan and the approval said you can't do this I guess I don't understand what...?

Bill Jeffers: Rule 5 was in effect when this subdivision was initiated and he had an erosion control plan of sorts in place for a while. He let it deteriorate to the point that his construction site, the entire subdivision, was discharging huge amounts of silt into our legal drain and he has done absolutely nothing for a period of several months to reerect his silt fences, etc., that are now laying flat in the bottom of our legal drain with mud all over the top of them. This is where we...or your Board has approved our plans to spend several thousand dollars and we'll have to spend several thousands more to correct it if we don't force him to. I guess that's my point. When we go back in there to do it ourselves we also have to honk a lot of people off and tell them to take their fences down or lose them. It's like a domino effect. This fellow, see I knew we would get into a long discussion, but the first one located his fence 35 feet from the property line and I got in a big argument with Brad Sterchi and finally said, look, we could probably live at 35 feet instead of 40. Get your surveyors back out there, survey a line off 35 feet. We went out and stuck stakes there. We can live this. Now, get your surveyors out there and get a new drawing in here to record a replat down in the Recorder's Office to show a 35 foot easement. Well, in the meantime somebody located a fence 25 feet in there. Sterchi did nothing. I hear he went down and told the guy he couldn't do it. The guy said I'll do what I want to get off my yard. I even heard from someone who works in our office who lives right across the ditch that a couple of people got inebriated out in their backyard took a shotgun and blew our survey stakes out of the ground with a shotgun. That's why he won't go over and say anything to them. I mean, this is getting radical out here. Okay, as soon as the guy moved his fence in 25 feet from the property line this lady who had her shrubbery planted 40 feet back where it was supposed to be uprooted all of her several hundred dollars worth of Spruce trees and lined them up with the guy's fence. It just like, moving in, moving in, moving in. It's just getting out of hand. But I don't, like I said, you guys want to be out of here and it's just one of those situations we're going to have to, I guess, I could talk to Mr. Harrison and see where we stand and come back with something to you next month.

President Jerrel: We need to send a letter to them though. They're going to have to pay.

Joe Harrison, Jr.: Well, Bill sent a nice letter.

President Jerrel: Yeah, he did, but I don't think that letter...I mean, I think it's a nice letter, but--

Bill Jeffers: Too nice.

Joe Harrison, Jr.: The Surveyor's Office has the power really. The Soil Conservation Erosion Control Ordinance since that was just passed a lot of those people did these things prior to the passing of that ordinance, but you've got the power since--

Bill Jeffers: There is two issues there though.

Joe Harrison, Jr.: Yeah, it's two.

Bill Jeffers: I brought up the other one to see if there was a granddaddy clause in your mind.

Joe Harrison, Jr.: Right, but you've got the more effective tool.

Bill Jeffers: Right on the ditch line we do.

Joe Harrison, Jr.: Yeah.

Bill Jeffers: Back in the subdivision we have no control over it.

Joe Harrison, Jr.: Right. I'd be glad to talk to you. Who knows what kind of response you'll get from your letter. I'm sure other than the experience at the parking lot.

Bill Jeffers: I'm just...I'm a very conservative person when it comes to private property rights. I'm as concerned as anyone of those people that live out there or more. I did not want to send them a notice until we're actually ready to use the 40 foot that we have like when we send excavation equipment out there. Now they're being defiant.

Joe Harrison, Jr.: But, again, you have...wasn't this one of the bids? Obviously it's one of the ditches that has to be cleaned.

Bill Jeffers: Right and coincidentally the guy who bid on it lives at one of these addresses and he actually has a fence that is 35 feet from the property line. He is our contractor. His name is Jimmy Axton, Lot 33. He was also the contractor last year and he was able to mow the ditch with what was out there and he says he can mow it again this year with whatever is out there. Yes, he can and I agree because the equipment he is going to use to mow can maneuver in the area that is left. I'm worried down the road when we try to take an excavator in there. We calculated that it would take at least 40 feet because the last ten feet of it is actually in the ditch, so we are really only using 30 feet. That's really, really cutting it close. There's going to be a lot of damage done when we take a piece of equipment out there on tracks and they've got their sewer clean out sitting on top of the ground and they are going to be crushed down and everything. Fences are going to be knocked down. I just see it coming and it may...I know that there will be a lot of complaints this summer about mosquitos and duck ponds and weeds and so forth.

President Jerrel: Bill, I've got something just to take with you and read it. Tony, I think, told you about it. It's some pictures and you can take it along and take a look at it.

Bill Jeffers: This is part of the same thing, but--

President Jerrel: I thought that was what it sounded like.

Bill Jeffers: Valerie has been working real well with SIGECO in getting them to help us clean some areas that lie on their property that are associated with this same ditch, but it looks like we're going to have to go in there and start spending some

money as well as SIGECO and try to work along with them to finish this up. This has always been a problem area. It is nothing new. This lady is a new resident of that area and there is an area...there is a part of her backyard sliding into this ditch not associated with what I have been talking about. It's on the other side of the subdivision.

President Jerrel: Any other issues?

Commissioner Tuley: Adjournment.

Commissioner Mourdock: Second.

President Jerrel: So moved.

Bill Jeffers: You're too quick for me. I've got one on Azteca, but I'll save it for next month.

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

**Vanderburgh County  
Drainage Board Meeting  
April 28, 1997**

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***Those in attendance:***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Del Schiavone  
John Michael O'Leary  
Jack Tubbs  
Jack Miller  
Andy Easley  
Al Buck  
Members of the media  
Others unidentified

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
May 27, 1997**

The Vanderburgh County Drainage Board Meeting met in session this 27th day of May in the Commissioners Hearing Room at 7:15 p.m. with President Bettye Lou Jerrel presiding.

President Jerrel: I d like to call the Vanderburgh County Drainage Board to order. I apologize for the delay; we got into some paperwork.

**Approval of minutes**

President Jerrel: The first item on the agenda is the approval of minutes of the previous meeting.

Commissioner Mourdock: I ll move approval of the minutes of the Drainage Board, April 28, 1997.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Drury Inn at Cross Pointe – Final Plan**

President Jerrel: Mr. Jeffers provided us with an agenda and the first item on the agenda is the approval of the following drainage plans. The first is the Drury Inn.

Bill Jeffers: The owners of the Drury Inn would like to build a new Drury Inn at Cross Pointe Subdivision and Lloyd Expressway, right next to O Charleys near Builders Square. Across the street from Builders Square. In order to place the units on that particular lot they need to construct a small part of the parking area within the drainage easement for the detention basin that you see out there at O Charleys that has the fountain in it. We allowed O Charleys to build their deck out into the detention basin and we encouraged dual use of the...or multi use of detention basins so that they are encouraged then to make them look nice like O Charleys did. However, this particular construction of this parking lot will displace about 19 cubic feet of water storage area.

Commissioner Mourdock: Nineteen?

Bill Jeffers: Uh–huh. Like two 55 gallon drums.

Commissioner Mourdock: Okay.

Bill Jeffers: We don t think that is significant. If you ve seen a 55 gallon drum tip over, it just spills out on a parking lot it s not going to amount to much. However, the parking lots I ve highlighted in yellow is what we were concerned about, whether the 100–year flood elevation in that detention basin would flood the cars and the engineer, Morley and Associates, has given us the drawings from O Charleys and we remember how deep the water got in the parking lot at O Charleys last year during that heavy rainfall. It looks like, in the worst case, there would be less than six inches of water in those parking areas that I highlighted in yellow, which would not require a warning. Our ordinance requires the builders to warn parkers when the parking area would be greater than six inches deep in water. However, I d encourage them to keep an eye on it and let their guest know if we re in a flooding situation and Nurrenbern Ditch is near it s peak and is spreading out across those parking lots that I would just encourage them to keep an eye on it for their guests. We would recommend that you pass the final plan for the construction of Drury Inn and allow them to construct part of that parking lot that is shaded in red hatch within the drainage easement, which you have to power to do, but that you include in your motion that we have encouraged the Drury Inn to somehow notify their guests that the parking lot may flood in extreme rainfall events and somehow or another relieve yourself of the responsibility for any damage that would cause. Put it onto the developer.

Commissioner Mourdock: I ll move approval of the final drainage plan as recommended by the County Surveyor s Office for Drury Inn with the comment that Drury Inn advise their patrons of the possibility of risk

in a flooding situation.

Commissioner Tuley: And they be allowed to encroach on the drainage easement between them and O Charleys?

Commissioner Mourdock: That s part of the motion.

Commissioner Tuley: I ll second.

President Jerrel: So ordered.

**Eagle Crossing, Section 3 – Preliminary Plan**

President Jerrel: The next item on the agenda is the Eagle Crossing, Section 3, preliminary plans.

Bill Jeffers: Okay, that was a final plan, this is a preliminary plan that will allow Eagle Crossing to advance to the Area Plan Commission next Wednesday, Wednesday a week from now. One of the developers, Bart Schutz is in the audience with his engineers from Morley and Associates. In order that you see that entire development area with the portions of the adjacent golf course and some of the proposed future development, they had to draw this on two sheets. Now the first sheet that you re looking at is the eastern half of the development down around Petersburg Road, immediately across Petersburg Road from McCutchanville Park where the soccer fields are. What you re looking at is the review notes that we had in front of us when we re sitting down with the engineers and the reason that area is shaded pink is they don t have any detention for that area down in that lower right-hand corner. That flows along the roadside ditch and they just couldn t get...with the grade the way they are they couldn t get it to go through the detention basin along with the orange shaded parking lot. However, the green area goes through a detention basin down at the corner before it crosses over where Mrs. Jerrel s hand is right now, it crosses Petersburg Road as it discharges out of that basin. That is detained in accordance with the ordinance. That serves the green area of lots. Then all the rest of the blue outlined area flows to the central...this creek that runs through the middle and they re going to take that and route it through a large lake in the middle of the golf course and detain greater than the amount required by our ordinance to offset in particular the pink shaded area. There s maybe three lots they can t catch, but the amount that will be discharged out of that lake is significantly reduced to offset what small amount would come off that clubhouse parking lot and the two or three lots in the corner. You see all the review notes on there and I ve written some explanations on there today to tell you why those notes were on there. There s one little area that they also can t catch that s down near Mr. Mourdock s left hand where we re saying there should be a 20 foot setback strip along the rear line of those lots so that people don t extend their downspout over onto the property line and discharge their downspout directly onto the neighbor s lots. You can see some sheds down there in the aerial photograph and we don t want any channelized water discharging through that property. They ve agreed to do that. This is a preliminary plan and so these are all review notes that will be taken into account when the final plan comes. It s a good plan. There s another sheet of paper in the plan that shows all the language that we required on Phase 1 and 2 because you know the detention facilities are out in the golf course and the questions came up, if the golf course filed bankruptcy who would take care of the lake? Because the golf course is going to be taking care of it as a water trap so long as it operates in accordance with the plans. But the county is not assuming any responsibility for maintaining that lake. That s the homeowners association and the golf course. So the language on this other sheet of paper is the same legal language that was required on the other side of the road for a similar situation and explains what will happen if the golf course fails to maintain it and the homeowners association must take over the responsibility, financial and physical, for maintaining it. Like I said, the various people here in the audience if you have any questions, otherwise the Surveyor s Office recommends approval of the preliminary plan for Eagle Crossing, Section 3. I don t know if there s any adjoining neighbors who are here to speak.

President Jerrel: Is there anyone here that would like to give comments on this particular plan?

Commissioner Mourdock: I ll move preliminary approval pursuant to the County Surveyor s recommendation for Eagle Crossing, Section 3 for the drainage plan.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Burkhardt/Lynch Industrial Park – Final Plan**

Bill Jeffers: Okay, I don't know if this is going to be a review of drainage plans or whether we're going to have a dance recital here, but this is Burkhardt/Lynch. Is there anyone here who would like to dance? Okay, it's going to be a review. This entire project is served by an interior drainage system of open swales which I've outlined for you in yellow. Those swales extend into each and every lot in this project. This is because we originally got a commitment from the developer that all the storm water drainage would be contained within this subdivision and routed through the storm water system. The engineer was able to accomplish that except for the areas I've highlighted in pink; that's the two entrance roads into Burkhardt Road in order to achieve smooth transition into the existing grade of Burkhardt Road or the improved grade of Burkhardt Road when it's widened. Those streets, obviously, will have to taper into Burkhardt Road and that water that runs on those streets will run out into the Burkhardt Road drainage system. I shaded them in pink to show you that it's an insignificant drainage area compared to the rest of the project.

Commissioner Mourdock: As a net, Bill, can you state whether or not there is more or less drainage going off the property now than before this plan was implemented? If I'm hearing you correctly, what you're saying, the pink may not presently flow towards Burkhardt Road, but it will after this plan is put in place. Is that right?

Bill Jeffers: Right, that's correct. The Burkhardt Road widening should take that into account. They need to pick that water up and put it into the drainage facilities that are created for Burkhardt Road when the county does the widening. This developer has given you 45 feet of right-of-way off of his side from the middle of the road to accomplish that. The reason I can't answer you directly... well, I can answer you directly, the water used to just sit out there in the field and pool until it got so deep that it went across the road. There was no drainage system from the agricultural field.

President Jerrel: The swales that you've described to us, we discussed some other issues regarding drainage where property owners change structures after they've been approved for correct drainage. I mean, these swales can't be filled in.

Bill Jeffers: That's correct.

President Jerrel: So that's assured by this plan --

Bill Jeffers: Well, the plan shows you that other than those two pink shaded areas that can't be constructed any other way, other than those small areas no drainage will discharge off this site without first going through the detention basin in the middle of the project except those entrance roadways. Now, those swales are open swales because that detention basin cannot store all the required volume during the 25-year event. Some of that is going to be stored in those swales, so yes, you're correct. Those swales must remain open, they can never be piped and they cannot be obstructed or even partially filled in. They must remain exactly the way that the engineer has designed them for construction. After they're constructed, and we went through this with the engineer, he shows in his plan...I mean, there's a big thick book that goes with this, he shows each swale, the elevation of the bottom, at the beginning, and at its discharge in. He shows the width of the bottom, how wide it has to be, he shows the width at the top of the banks and the depth and all that's predicated on the necessity of those swales storing a certain volume of water during a heavy rainfall event. You're correct, they're all housed within easements that are wide enough and each and every site plan that comes in through Site Review Committee must be accompanied by a drainage plan that shows that the purchaser of that site and the developer of that site is not paving over, piping or otherwise filling in the volume in those swales that store water. That's correct. So whoever reviews those, in this case, the people who do this at the present time is our office, I go to the Site Review Committee and John Stoll goes to the Site Review Committee. We would be the two people that could catch that. Down the road, as each lot runs a site plan through Site Review, the reviewers must make sure that the parking areas and the

buildings do not encroach into these easements.

President Jerrel: It would also be nice if they would alert the property owner --

Bill Jeffers: Prior.

President Jerrel: Prior, that this is, in fact, what has to be maintained or we'll be playing watchdog on this plot of land forever.

Bill Jeffers: But we've struggled with that for years. I don't want to name names because I don't want to draw attention to any particular subdivision, but there have been other subdivisions very similar to this that somehow or another the swales got filled in, commercial subdivisions. But we have asked the developers to place this language on the plats in the restrictions and covenants, and really, it's up to the real estate folks and the title people to say hey, look here, this is in your covenants. Do you know this before...you know, in the process of purchasing it they should know what they're buying. We've done everything we can as our office and your Board to put that language out there. I don't know anywhere else to put it. On the billboard in front of the subdivision maybe.

President Jerrel: Is there anyone present that would like to speak to this?

Commissioner Mourdock: I'll move approval of the final drainage plan for Burkhardt/Lynch Industrial Park.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Sycamore Hills Replat, Phase 5 – Preliminary Plan**

President Jerrel: The next item on the agenda is Sycamore Hills and this is a preliminary plan for Phase 5.

Bill Jeffers: As Ms. Jerrel said, this is a preliminary plan for Phase 5, replat of an area of Sycamore Hills which is going to Area Plan Commission Wednesday, I believe it's June 4. At least two of you remember discussions we've had over the past couple of years about Sycamore Hills and specifically that this area does not require any more detention so long as the facilities that exist in the rest of Sycamore Hills have been completed in accordance with the plan. This area here was an open area that some people thought would remain grassy for the use of picnickers and horses and so forth, but the developer wants to put these four lots in it. The yellow shaded area, where the front yards and about half the houses will be, drains out into the street and down through the detention basin. The area that is outlined in blue is the back half of the houses and the backyards. The blue itself shows the drainage swales between the yards which will carry the water directly into Schlensker Ditch. The backyards are so close to Schlensker Ditch...I mean, Schlensker Ditch forms their boundary, there is no reason to detain water between the house and Schlensker Ditch. That is pretty much all floodplain to begin with. The Drainage Board, a couple of years ago, accepted the plan that if Mr. Williams, the developer, completed everything in accordance with the set of plans that I have here from Veach Nicholson Associates, if he did everything here, there would be no further detention required in this area because there was sufficient detention in the rest of the subdivision. This set of plans here. There is some more details that Mr. Nicholson, who is here in the audience, has provided. This is a preliminary plan and what I am going to tell you is we recommend that you approve it and allow this replat to go forward to Area Planning Commission. Before the final plan is presented and the plat is recorded so that it can be constructed our office will go out and inspect the drainage facilities which Mr. Williams has said he has finished, but which I have never inspected in their finished state. I've seen them several times in their nearly completed state. I will personally inspect that before I sign off on the plat to be recorded that they are, in fact, finished. I won't sign it until they are finished. Oh, the other thing that I wanted to tell you is I called the lawyer for some of the residents, the homeowners in this subdivision who are keeping track of this, and he comes to our office every month to see if it is coming to Drainage Board and I called him today and notified him that it was going to come to Drainage Board with our positive recommendation which meant

that if you passed it, it would go to Area Planning Commission a week from Wednesday and come back to us for final approval. He said he would talk to his clients about what they wish to do. I don't know if they are here today or not.

Commissioner Mourdock: Bill, going back through my notes here while you were speaking, I have a note from February '96, I think. It said regarding Sycamore Hills Estates, Phase 4, that there still has not been a Homeowners Association formed pursuant to your recommendation. Do you know did that ever get done on Phase 4?

Bill Jeffers: No, it has not been formed. I think that there will be quite...that would be quite a feat considering—

Commissioner Mourdock: Do you expect when you bring this back, assuming it comes through Area Plan, that is still going to be part of the requirement on this one?

Bill Jeffers: Someone needs to take care of those drainage facilities out there, but I would rather that the developer's lawyer explain how he intends to take care of them until a Homeowners Association is formed because the homeowners' lawyer has indicated that it would be quite a feat at this time for the homeowners to agree to form an association considering how far they are apart on items other than drainage.

President Jerrel: Is there anyone who wishes to speak to this preliminary plan?

Commissioner Mourdock: As a member of Area Plan, certainly I will be hearing this again next Wednesday, so making the motion here does not one way or the other cast in stone my opinion on the whole project. I need to listen to all the facts, but at least for the moment, pursuant to the recommendation of the County Surveyor, I'll recommend preliminary approval of Sycamore Hills Estate, Phase 5.

Commissioner Tuley: Second.

President Jerrel: So ordered.

### **Nalley Minor Commercial – Final plan**

President Jerrel: The next item on the agenda is the Nalley Minor Commercial. It's a final plan.

Bill Jeffers: Okay, this is Nalley Minor Commercial located at the intersection of Burkhardt Road and Virginia Street. All three of the Commissioners, I believe, are familiar in one way or the other with this site. It's the proposed Bigfoot Convenience Store on Lot 2 with a car wash and a so-called service lane, service road, service lane, access lane. Okay, what Mr. Poff, who is the engineer for the developer, has done here is shown you a detailed drainage plan for Lot 2 because they know that a convenience store is going to go there and the probable layout of that allows them to construct a drainage basin out front in the green area between the parking lot and Burkhardt Road outside the right-of-way. We would encourage the County Engineer and the designers of Burkhardt Road widening to take this into account and just grade the shoulder straight down into the drainage basin at this point rather than have two ditches. It's a good workable plan. It slows the water down and then discharges it out into the planned drainage system for Virginia Street which routes it back across Burkhardt Road into Crawford-Brandeis Ditch. This is a workable plan for Lot 2. Lot 1, we do not know what will be placed on Lot 1, so what the engineer has done is assigned the maximum discharge rate of storm water from that site and then during Site Review Committee the developer will have to present a site drainage plan in conformance with those figures and our office will sign off on that.

Commissioner Mourdock: What does that mean, Bill? Does that mean he assumed that Lot 1 was 100 percent covered with asphalt?

Bill Jeffers: I think he assumed more like 75 percent, I think, which is the allowable coverage.

Commissioner Mourdock: Okay.

Bill Jeffers: About 77 percent.

Commissioner Mourdock: On the recommendation of the County Surveyor, then, I'll move approval of the final plan for Nalley Minor Commercial Subdivision.

Commissioner Tuley: Second.

President Jerrel: I was going to ask if anybody wanted to---

Commissioner Mourdock: I don't think there was anybody here.

President Jerrel: No, apparently there isn't anyone here that wishes to speak to it so, so ordered.

Bill Jeffers: Everybody out there is just dying for everything to go commercial so they can sell their last few houses!

**Five Oaks Subdivision – Reaffirmation of final plan**

Bill Jeffers: Your next item is Five Oaks Subdivision. Five Oaks Subdivision drainage plan was approved by the Drainage Board...the final plan was approved by the Drainage Board on July 25, 1994 and the developer allowed the...whatever the time the Area Plan Commission allows you, he let that expire. Then it was sold to a different person who bought it on tax sale, so the plan was never put in the ground. This is the same plan that was approved by your Board on July 25, 1994. It shows all the water from the north side of the subdivision routed through a detention basin before being discharged into the right-of-way for Hedden Road. It's got a detention basin. We're asking...or the new developer is asking for the plan to be reaffirmed. Area Plan Commission said that is all that would be required to get it back in the system. They're not going before Area Plan Commission. They would just like the original final drainage plan to be reaffirmed by your Board.

President Jerrel: Is there a representative here?

Bill Jeffers: Morley & Associates did the design work.

President Jerrel: Okay, alright.

President Jerrel: If there is no one here that wishes to speak, is there a motion?

Commissioner Mourdock: I'll move for the, I guess, reaffirmation of the final plan for Five Oaks Subdivision.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Stonehaven Estates – Preliminary plan**

Bill Jeffers: Okay, we had a subdivision that we had on our agenda...let's see it would be...or likely agenda that this subdivision may come up because we had every piece of information we needed except for a document from the developer's attorney on Glenwood Hills Estate, Section B. Mr. John Hunter, the developer, is in the audience. I believe his attorney is still here who brought that document to us and the engineer for the project, Mr. Daryl Helfert from Morley & Associates, is here and if it is your pleasure I would bring that before the Board at this time.

President Jerrel: That is Item E that's on the agenda that I am looking at? Glenwood Hills, Section B?

Commissioner Tuley: Section 3, Item E.

Bill Jeffers: Right. Yes, ma'am.

President Jerrel: Did you remove Item A?

Bill Jeffers: Which was?

President Jerrel: Stonehaven Estates.

Commissioner Mourdock: Stonehaven.

Bill Jeffers: On Stonehaven Estates I felt I did not have sufficient data to make a recommendation, however, the engineer for that project is in the audience and I don't know if it is his intent to make an appeal to the Board to keep it on the agenda or put it on the agenda.

Commissioner Mourdock: Just so I understand what you are saying, Bill, you've got A through F on there, six items, and it is your feeling—

President Jerrel: No, there is a different agenda.

Commissioner Mourdock: Oh.

Bill Jeffers: The one that Tony did for my agenda he just...he simply left off the probable...or the ones I told Tony I wasn't sure if I would have time to review those because it was a holiday weekend and I was taking a half a day off Friday.

President Jerrel: Sure.

Commissioner Mourdock: Okay.

Bill Jeffers: So he left those off for clarification purposes and said if you want to bring them to the Board you can ask them if it's their pleasure to take them up.

President Jerrel: Okay, but going down the list just in the order that we had them, you're recommending that...we're removing Stonehaven? Is that what you are recommending?

Bill Jeffers: I'm telling you that I can't make a positive recommendation because I don't have sufficient data to base my recommendation on, but that the developer may appeal that decision, arbitrary decision, of mine.

President Jerrel: Okay, is the developer here?

Andy Easley: There were a few items that Mr. Jeffers had questions on. It would very much help my developer if we could get a preliminary approval. We will come back for final. It's 76 acres. There are two structures on this 76 acres and we are adding, I guess, nine building sites. It's going to be auctioned in about 30 days. The developer or my client has since moved to Wyoming. It would help the logistics of his auction if we felt we could go to the Plan Commission and then have a subdivision that was approved or ready to be close to recording with the exception of getting final drainage approval and getting the final plat. It's not a dense subdivision and it has virtually, in my opinion as a registered professional engineer, it has very minor questions to be answered. I think to be objective you would probably have to agree to that, Bill. We do need to go down the check list one more time and I pledge that we will do everything as far as easements or whatever you want us to do. There is a good sized lake on the property. It doesn't really need any retention. We can trap enough water in there which nobody else has done in such a 76 acre development. I would really appreciate your cooperation if you could do that and then we'll come back for final.

Bill Jeffers: As far as detention goes that is the least of my concerns. I really could hardly care less whether

there was detention on this site or not because the lot sizes are three, three and a half, four acres. I think one of them is 10 acres or something. The lot...the detention is not the question that I have. The plan that was presented to our office did not come close as of...it did not even come close until after noon Friday to meeting the minimum requirements for a preliminary drainage plan. When it was brought into our office I had taken off for the week and did not look at it again until this morning at which time I noticed that there were still significant...there was significant information not included with the submittal to meet the minimum requirements for a preliminary drainage plan under our new ordinance. I know that there is probably a good building site for a home on all but maybe two of the lots. On those two lots they are going to have trouble finding a building site. Even if they do find a building site on those two lots, they are going to have a hard time finding a site for a septic field location.

Andy Easley: The Health Department has approved everything for a septic tank Bill.

Bill Jeffers: That's good to hear. Then there is some problems that I am having visualizing from the information that was submitted how those lakes...where the spillway was for the two lakes. At one time I was told by the engineer in Mr. Easley's office that the lakes were connected by piped facilities and then I find out today they were not. The spillway, where the spillway was shown drawn on the lake, seemed to be discharged upgrade or through an area that just didn't naturally look like a spillway. Some of the pipe locations and the information submitted with the pipes I had questions about and I would feel much more comfortable if I could go out and at least look at some of these locations to verify some of the information that was submitted that I feel lacks documentation. I didn't bring the plan here to the meeting with me. Maybe Mr. Easley has a plan, but if we were into a discussion of it, it would probably...if I could explain...if I took the time to explain myself it would probably take at least 30 minutes and I still feel like after that 30 minute period ended I would not be able to make a recommendation, a positive recommendation, on behalf of the County Surveyor, for approval of this plan.

President Jerrel: Again, I will ask is there a motion to approve?

Bill Jeffers: There may be some people here in the audience that had comments on it, I'm not sure. I heard they were here earlier this evening.

President Jerrel: Is there anyone here that does wish to comment? If you'll give us your name, please?

Brian Price: My name is Brian Price.

President Jerrel: And where you live?

Brian Price: 13040 Reising Lane. I'm not an adjacent homeowner, but I live on the back of the lane. The only thing that we are concerned about from the people that I have met with is it's a private lane, I guess, right now. We maintain it ourselves. The county does not bring in gravel or anything to help maintenance of it. Right now the big problem that we have right now is we do not have a legal homeowners association or maintenance association and we've been working with...or trying to work with Andy and I think we should be able to resolve that, but our concerns, I guess, are the long-term maintenance like setting up some kind of annual or quarterly fund to maintain the road and also we've seen one house that has been built within the last year or two years and the construction, on-going construction, of the new homes will really wear and tear on the new lots coming in. Maybe we can do something to keep the road up to its current conditions. Beyond that there are other people that had some concerns, but we, hopefully, will be able to work with Dan or Andy on resolving those. That actually is all I have unless you have questions for me?

President Jerrel: Any questions?

Andy Easley: Anybody want to see a closer look at this?

President Jerrel: Do you want to look at it? I don't know that we would know what we were looking at until we get it color coded.

Andy Easley: Dan McFadden is the owner of the property. I apologize to Mr...to Bill, Mr. Jeffers, for maybe taking this...we've had several subdivisions in the office and we may have taken this a little bit too lightly thinking there weren't very many drainage problems and you know I don't think there is very many drainage problems. Yes, there are some unanswered questions, but I really don't see how you could say it lacks a tremendous amount of information. Maybe it does some documentation, but I think John Stall will say that there is probably not any major drainage problems out there. I couldn't answer exactly where that one spillway was. I walked over it and I walked around the lake, but it's a tiny lake and it probably...knowing what it is it probably has a ten inch pipe coming out of it.

President Jerrel: Okay, I'll ask again, is there a motion to approve? Hearing none, no action. The next item on the agenda?

**Glenwood Hills, Section B – Final plan**

Bill Jeffers: The only other subdivision plan I have to bring to you tonight would be Section B...Glenwood Hills, Section B. Okay, Glenwood Hills, Section B, the developer is John Hunter, this gentleman sitting here with the blue jacket on. His attorney is Mr. Jerry Atkinson sitting to his left. Daryl Helfert, sitting over here with the striped shirt on, is his engineer. You may remember last year we had quite lengthy discussions about Glenwood Hills and it boiled down finally to three or four questions. First, was the homeowners association which was to have been formed in Section A because Section A shares the large lake...This is the big one. Section A is on this half. Section B is over here. Section B shares a large lake with Section A and a homeowners association had not yet been formed because several lots proposed to be developed over in Section B remained the property of Mr. Hunter. Now he is proposing to develop those lots. When they're developed he intends to form a lake owners association for the maintenance of that lake which would include lot owners in Section B as well as Section A. If there is any question about that, I mean, it answers the question for us and if there is any questions by you concerning the time frame or set up, Mr. Atkinson can answer that. The second question was they needed to make some adjustments to the spillway of this large lake to improve it and bring it into conformation with the originally approved plan and also updated according to our new ordinance. We didn't want any alterations made to that spillway that would lower the lake level thereby altering the shoreline of people who already owned homes in Section A. We figured that might bring an action by them against you, so they have presented a plan here that does not lower the lake level. It uses the same pipe and makes adjustments to the spillway that will not lower the lake level. The third question was--

President Jerrel: Bill, may I ask how do you determine that? That it won't lower the lake level? You said a ten inch...what sized pipe did you say?

Bill Jeffers: There is a 24 inch pipe in the dam that needs some improvements made to it. They're going to extend it all the way down to the toe of the dam with a spillway chute, rock chute, to carry it down to the natural creek and all these...and then the emergency overflow spillway had been allowed to grow up in small trees. It wasn't large enough to begin with and it wasn't built at the right elevations. They're going to go in there and widen that spillway. Clean it up and construct it properly. In doing all of this they are not going to cause any physical structure to...they're not going to make any alterations that would lower the lake level.

Commissioner Mourdock: So they are keeping the pipe?

Bill Jeffers: They're keeping the pipe at the same elevation and not digging out the spillway any deeper.

President Jerrel: Okay.

Bill Jeffers: The open spillway because we figured if they lowered the lake level that would draw the shoreline away from the property owners and I'm sure they wouldn't like it.

Commissioner Mourdock: The third issue was the dam itself!

Bill Jeffers: Okay, well...that's the fourth issue! I'm going to skip over to the third issue and call that the areas I have shaded in are the two new lakes that are proposed. The yellow half of the lakes are on Section B. The pink portions of the lakes are on property not within the subdivision. Presently, that property is owned by the Hunter family. Looking down the road it probably will be Section C or D, you know, but at this time it is outside the proposed project, so we wanted legal language attached to this project that would allow the lake owners and property owners or the developer as long as he is working on this ground to cross over and go around the entire lake and make necessary repairs and do necessary maintenance because we are not going to do it. He is showing on the plat that there is an easement to carry on these activities and then Mr. Atkinson has prepared some documents which we agree with the language. We are making some very minor suggestions like shortening the period where the adjacent landowner in Mr. Atkinson's version had 60 days to initiate the needed repairs or maintenance and we're saying he should only be allowed 30 days. Things like that. However, by the time this is ready to come to us as a final plat for recording, we'll have that worked out. Very minor issues. He has a lake maintenance agreement here. He also has the covenants and the restrictions for Section A showing that the homeowners association and everything is up to snuff in that. So we are in agreement with question three now with the developer. The last question is how to repair the lake because in our mind there is an obvious slow leak that takes it down to a pool elevation below the spillway and then it stays there. We think maybe there is a rock shelf or something that is seeping through and that needs to be sealed. We don't think that the entire dam is leaking and the whole thing will go bone dry. We just think there is a rock shelf somewhere near the spillway or somewhere that it is allowing that lake to go down about eight inches below the pipe and then it stays there.

President Jerrel: Can you come show on the map where that specific area is that you are referring to now?

Bill Jeffers: Well, the spillway pipe is right here. Even after it rains real hard and the lake fills up within a week or so it is down about six or eight inches below that pipe. Somewhere down in here, obviously in this real hilly ground there is a lot of rock. We think there is a rock shelf somewhere that allows water to seep through and no one can find it because it is such a very slow leak.

Commissioner Mourdock: Bill, as a matter of law, maybe this is a question for Joe, do we care? I mean, should that influence our decision if, in fact, it is coming out as you say along a rock ledge or however it is flowing? Granted, the property owners may think they have a lake shoreline at one elevation, but it ends up being at another, but should that be something that this Board considers as a drainage issue?

Bill Jeffers: Well, now that is real curious because the...Mr. Morley told me you ought to be happy it leaks because now you've got more detention. You got a greater freeboard for it to fill back up.

Commissioner Mourdock: That wasn't the point of my argument.

Bill Jeffers: I'm sure he was joking around, you know, and I was joking around and said, yeah, well maybe the only reason I care is because one of the property owners is a pizza customer of mine or something, so we are joking back and forth. The bottom line is one of the landowners out there made it an issue and said, you know, you guys need to take a look at that and so I included it in there.

Commissioner Mourdock: Okay.

President Jerrel: Is there anywhere in any of the past documents related to this where the elevation of the lake has been prescribed?

Bill Jeffers: Oh, yeah. Any time they build a lake they tell you what the pool elevation is going to be. That shows on this document here that the pool elevation is 500 feet or so above sea level.

President Jerrel: But then does the property...have you ever had cases where the property owners come back and say, you said this and they said it was going to be here and now nature has decided something else? You said in the very beginning that you wanted this crack—

Bill Jeffers: Well, this isn't nature. This is the construction of the dam was performed in such a way that it did not prevent water from leaking out of the dam. In my mind, I might be wrong.

Commissioner Mourdock: Did I hear you say, too, that even if it is this rock ledge that you think is out there in the water moving along that surface you're not making any recommendation as to how to fix that or stabilize it?

Bill Jeffers: No, I'm not qualified to make that recommendation. Someone who is qualified is Mr. Morley and his suggestion at this time to the developer is to attempt to locate the most probable leak site and what do you use...? Bentonite?

Commissioner Mourdock: Grout, yeah.

Bill Jeffers: Make a bentonite application that would seal that leak. That's his suggestion. It's a suggestion that I would have to endorse because Mr. Morley is qualified to prescribe that. Whether or not it is our duty to see that it is done is, I believe, the question Ms. Jerrel is asking and I can't answer that. It's just that a plan was submitted to us that showed a pool elevation of...it's on there, 500.--

Commissioner Mourdock: 502.93. I'm sorry, that's minimum top of dam. It's 500.7.

Bill Jeffers: 500.7 feet above sea level is on the plan and it was pointed out to me by a landowner that is not maintained and so maybe I made it an issue and maybe it's not.

President Jerrel: Is there anybody here that wishes to speak to this issue?

Commissioner Tuley: He's got item four to go through yet doesn't he?

Commissioner Mourdock: That was item four.

Commissioner Tuley: That was item four?

President Jerrel: Uh-huh.

Commissioner Tuley: I'm sorry.

Bill Jeffers: Right, that would be the only unanswered...or that would be the only issue that has not been fully addressed.

Commissioner Mourdock: Bill, under at least the preliminary agenda you had for the meeting this was under subdivisions on APC agenda for which sufficient plans not received prior to deadline, but representatives may appear. Given the presentation you just made were you making a recommendation one way or the other as you have with the others?

Bill Jeffers: Oh, we will be recommending approval of it if we can answer that one question.

Commissioner Mourdock: Question four?

Bill Jeffers: If Mr. Hunter will say that he will make all efforts to identify the location of the leak and apply bentonite to that location sufficient to stop the leak we would recommend approval by your Board of the final drainage plan for Section B, Glenwood Hills.

Commissioner Tuley: This is final?

Bill Jeffers: This is final. The little bitty language things I was talking about and the thing Mr. Atkinson has prepared can be finished up before the recorded plat arrives at our office.

Jerry Atkinson: My name is Jerry Atkinson and I do represent Hunter Development Corporation. Mr. Hunter has indicated to me that he certainly intends to address in every reasonable way the possible leaking of the lake. He has consulted with the Soil Conservation folks. They've indicated a manner of staking the lake to

try to determine the rate of loss. If he can locate the leak and it is fixable with bentonite he will be happy to do that.

President Jerrel: Mr. Jeffers, how do you feel about that?

Bill Jeffers: I think it would serve his purposes to do it. He is going to own that land around there and try, you know...I mean, that's fine with me. I just think it would serve everyone well if that lake would stand at 500.7 feet above sea level at all times.

Commissioner Mourdock: I'll move final approval of the Glenwood Hills Estates, Section B, drainage plan with the comments that Mr. Atkinson noted that the owner will use all reasonable methods to try to seal that leak.

Commissioner Tuley: Just a question. This is final? This is not preliminary.

Bill Jeffers: Yes, sir. This will allow him to produce a recordable plat with all the language necessary to take it down to the Recorder's Office after which time he could come up to the Building Commissioner's Office and have building permits issued for the construction of the homes.

Commissioner Tuley: Okay, just so it was clear on that, but I'll still second.

President Jerrel: Okay, so ordered.

#### **Clear Creek – 100 Year Flood Study per FEMA**

Bill Jeffers: Okay, Clear Creek. This is real easy. Clear Creek Village is located on Mount Pleasant Road just west of 41 and during the review of that we asked one of the requirements to be a complete study of the improvements that they were making and what effect that would have on the 100 year flood elevation along the railroad tracks and Little Pigeon Creek. Here is the study and it has been reviewed by the Department of Natural Resources and found to be correct. Mr. Morley asked that I bring it to you and that it be stamped received and then filed in the Surveyor's Office for future reference. I'll bring it down tomorrow...if you move to receive it I will bring it down and have Lynn stamp it tomorrow.

President Jerrel: Is there a motion?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

#### **Eagle Crossing – Flood Construction Permit Study**

Bill Jeffers: Okay, a similar situation. Mr. Morley's office is also working with Eagle Crossing and part of the golf course plan was to build some golf cart crossings over Furlick Creek which requires a Department of Natural Resources permit for construction in a floodway and here is that documentation from DNR or it was actually...there was a letter from DNR stating what the cubic feet per second would have to pass underneath that golf cart crossing during a 100 year storm and I guess this allows a permit to build that thing. Mr. Morley wanted this stamped received and filed. I do have a comment on this. The letter that came back from DNR assigns a flow rate of 1,200 cubic feet per second at a location approximately 1,000 feet north of Kansas Road for Furlick Creek. In 1982 the same department assigned a flow rate of 1,450 cubic feet per second at the same location.

Daryl Helfert: Bill, actually that location was just below that where a small tributary came into it.

Bill Jeffers: That might explain it, I don't know. Please note that the floodway is the same...this is their words:

Please note the floodway is the same as delineated by the previous study.

So even though there is less water the floodway remains the same. I find that curious. It might be explained by Mr. Helfert's comment that another tributary comes in just below this point. That might explain it to me. However, it was brought to my attention that the bridge on 57, which the State Department of Transportation is currently widening to accommodate increased traffic flow across the bridge, Furlick Creek goes underneath that bridge. The flow rate assigned at that bridge by the Department of Transportation Engineer for the design of the waterway opening for that bridge is 1,120 cubic feet per second during a 100 year flood or a 100 year rainfall event. It's 2,000 feet south of this location and yet the flow rate is 80 cubic feet per second less.

Commissioner Mourdock: Evaporation?

Bill Jeffers: Pardon me?

Commissioner Mourdock: Evaporation!

Bill Jeffers: No, exasperation on my part! That's the reason I am bringing it to your attention. I'm going to try to be brief, but when this was brought to my attention we looked at it. They are...not only are they building this bridge using a flow rate significantly less than what DNR has assigned to a golf cart crossing 2,000 feet upstream, there is also about another 200 acres of land that comes into this...flows into this creek below this golf cart crossing. Between it and the bridge on 57. There is maybe 700 acres flowing into the creek above this golf cart crossing and another 200 below it before it arrives at this bridge and INDOT is building a smaller waterway opening. Okay, now the reason I am concerned about this is because the...well, first of all, the current opening of the bridge...no, the opening that they are going to build is smaller than the current opening. They did that to save money. They decided to build the new wing walls inside the old ones because they could justify it with their flow rate of 1,120 cubic feet per second. They're also lowering the low concrete down into the stream below the 100 year elevation that they themselves calculate. Okay? I was advised that I could take my complaints to the preconstruction hearing out on Spry Road back in March and I did so and was told they were going to go ahead with it. I took my complaint to DNR and they said well, there is only three ways that DNR could assign them a higher flow rate because DNR...they're exempt from what Mr. Schutz has to go through here. They're exempt from that because INDOT does not have to take the Department of Natural Resources assigned flow rate unless 50 square miles or more flows through that bridge where the developers that are putting the golf there have to do it because only one square mile goes through the golf cart crossing. The second way that DNR would have jurisdiction would be if there is a structure upstream that is in peril of flooding should this waterway opening be choked down. I haven't got time to go out there and look at every barn and goat shed out there. The third way that DNR would have jurisdiction would be if this area was considered urban rather than rural and I said well, this area is urban. We're getting ready to approve 171 new building lots immediately upstream of here. That's how this all started because of McJohnston Place. We're going to approve...potentially could approve 171 building lots and we are telling those people that they have to build two feet above the 100 year floodplain. The 100 year floodplain has been established by DNR at that location. Now the state comes along and on the plans that the state submitted...on the plans that they're building that bridge by it says that it will raise the elevation of the water in the channel a sixteenth of a foot which is like two inches. It also says it will raise the elevation of the water in the 100 year floodplain by about one quarter foot which is three inches. This is based on their calculations using 120 cubic feet per second rather than what it should be if they were all on the same wave length as the rest of us. Okay, so you say, okay, what's the big deal? A couple of inches. Well, we have a Floodplain Management Ordinance that was sent to us by the state and we were required to pass it and we're operating under a Floodplain Management Ordinance whereby any structure that is allowed to be constructed below the protective grade, and the flood protection grade is two feet above the 100 year floodplain, anything below that has to have a variance. We know all this. We know this is all going on and we're sitting here telling these people to build your house at 405 feet above sea level and the state is raising the floodplain elevation and they should all be coming in for variances.

That's the quandary I'm in and I don't understand it. The third way that they can assume jurisdiction over this, DNR, like I said, was if it was declared urban. I said why can't it be urban? There is an airport over here, a plastic plant, all these new subdivisions going in. Well, it turns out that under the state statute the definition of urban goes something like this: If they've got a little backwater town that has an Advisory Area Plan Commission that decides oh sometime in the future we're going to annex so we are going to draw a two-mile circle around our little backwater town and everything in there we have the advisory power over and we're going to call that a planning zone, that's urban. The third largest town in the state of Indiana which has a real Area Plan Commission and the entire county is the planning zone, that's not urban. That's about the time that conversation ended between me and the fellow over there at DNR. He said send all the information up to him and he would reply. I sent all the paperwork up there, highlighted everything I had questions about, wrote my questions out in the margin and I haven't heard anything back.

President Jerrel: Do you recall his name?

Bill Jeffers: Mike Neyer, the same guy that signed this.

President Jerrel: How do you spell his last name?

Bill Jeffers: Neyer. Oh, no. He didn't sign this one, excuse me. I'm coming to that. Mike Neyer. I believe, if I am not mistaken, he is the Assistant Director of the Division of Water. Sorry for doing all that editorializing, but anyway, Mr. Morley would like this application for construction in a floodway stamped received and filed in our office.

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: You approved the Burkhardt-Lynch drainage plan and the engineer would like to know if you would sign the cover sheet that goes with that set of plans showing that you approved it tonight.

Commissioner Mourdock: For which?

Commissioner Tuley: Which one?

Bill Jeffers: Burkhardt-Lynch.

Commissioner Mourdock: Oh, sure.

Bill Jeffers: They like to file that with...

**Old business**

Bill Jeffers: The next order of business would be old business if anyone has any.

Commissioner Mourdock: While they are signing I do have one item of old business. Joe, it pertains to a lease that the county has. I received a question the other day and just downstream from the Clear Creek Subdivision that Bill referenced earlier which is near Mount Pleasant Road a question came up on the lease with the Hamilton Golf Course on whether or not the golf cart crossing bridges are of adequate size for the drainage out there or if, in fact, there was any terms under the lease by which they had to make sure any structures they built across that drainage way met some sort of standard. Could you review that and give the members of the Board and also send a copy of the correspondence to Bill regarding anything that you find on that issue?

Joe Harrison, Jr.: Then I will speak with Mr. Jeffers. Was there also along the same lines with the damming

issue was that a question as to whether or not that was in place as of what...? 1973 or something? Has that been answered?

Bill Jeffers: No.

Joe Harrison, Jr.: Who will make...is that something that you have to personally be comfortable with? Your office?

Bill Jeffers: Me personally, yes. Our office, no.

Joe Harrison, Jr.: Okay.

Bill Jeffers: I mean, I have a conscience here. A conscience you know?

Joe Harrison, Jr.: I understand.

Bill Jeffers: I think it s a damn travesty.

Commissioner Mourdock: No pun intended!

Joe Harrison, Jr.: Who is making that determination? The state?

Bill Jeffers: DNR.

Joe Harrison, Jr.: DNR, so DNR will have to be satisfied as to whether or not the dam was in place prior to 1973.

Bill Jeffers: Well, we received in our office, and I think you re covered on here, too, on the service list. Plan Commission, Soil Conservation, Drainage Board, yeah. But I think they sent the Drainage Board copy to the County Surveyor, it looks like to me. Anyhow, this is a termination notice after the fact of construction in the floodway for Hamilton Golf Course.

Commissioner Mourdock: What s the date on that?

Bill Jeffers: Effectively what this does it says the three golf course...excuse me, the three golf cart crossings of Little Pigeon Creek were placed prior to January 1, 1973. They based this first on some aerial photography that shows that the golf course was present in 1973 and on a notarized affidavit from Mr. Fred Smith of Freddie s Heavy Hauling Engineers stating This is to verify that the bridges at Hamilton Golf Course were in place in 1972. My company did the work for Mr. Bob Hamilton. Okay, it only addresses the three golf cart crossings and does not address the rubble dam which has concrete splashed over the top of it and carved in the concrete is some initials with the date 1993 on it.

Joe Harrison, Jr.: Can we get a copy of that letter?

Bill Jeffers: Yes, sir. You can have the original which all I have added to it is Mr. Mike Neyer, who signed it, his phone number in Indianapolis for any questions or explanations of what it really means.

Commissioner Mourdock: What s the date on that, Bill?

Bill Jeffers: April 18, 1997. Now you ll remember, the two gentlemen who were on the Board last year, that there was quite a crowd in here about this time last year and it was either after the April 28th or the June 9th storm that the Volunteer Fire Department Captain stood up here and said that we were making a joke out of it. Now, our office has reported this to the County Commissioners back in the '80's. Early '80's. I m going to tell you that those golf cart crossings have been worked on since their placement. Mr. Hamilton himself told me that one of them had been washed out and he replaced it. I m not attesting to his veracity, but that s what he told me. The other one, obviously, I said you know that one up here, the first one, which is an orange boxcar that has been cut off, I said you know that thing looks like to me it s been raised up

because I remember it being lower down in the bank a couple of years ago. He said, yeah it was sinking into the bank and we raised it up and put a footer underneath of it. Well, it didn't sink down into the bank. I'm going to tell you what is happening out there and it is effecting Petersburg Place. Anytime you have a body of water rapidly moving down through there it's carrying a lot of silt and sand waterborne and when it reaches the top of the banks and floods out into the floodplain it slows down and it drops the sand right there at the top of the bank. That's natural and that's called a natural levee. All creeks do it. When it hits that golf cart crossing it slows down and it goes out around the golf cart crossing and I have seen Hamilton Golf Course maintenance personnel physically scooping up to two feet of sand off the golf cart path that crosses that bridge. Now that's raising the bank of that creek rapidly and that bridge is not sinking, the bank is going up. That's happening, I believe. I haven't yet proved it, but I believe it is happening up in Petersburg Place behind Mr. Schminke's property in particular. We knew that street in Petersburg Place at the intersection of Bob Court and Southport was going to flood when it was built approximately 18 inches deep. We could determine that from the elevation of the bank of the creek behind the house, the elevation of the top of the curb, and so we suggested an overflow channel to carry that water over the top of the curb and back to the creek. Well, the creek bank, I believe, has increased in elevation over the years. It's been 10 or 12 years since we approved it and I think that the water is traveling at a higher elevation in that creek than it was 12 years ago because I believe the bank is building up with silt that is being washed out of these developments upstream of there. We don't have adequate enforcement and the water now floods the street four feet deep. Apparently it's of no concern or these folks can't do anything about it.

Commissioner Mourdock: Give a copy to Joe.

Bill Jeffers: I mean, if you detect a little frustration in my voice tonight over these state agencies you detect the truth.

Commissioner Mourdock: Frustration so noted. My interest on this one maybe next month maybe you can have a map, Bill, you can bring in as part of the discussion and at the same time Joe can review that lease or whatever and see what we've got there and better understand what the problem is and also what our options are.

Bill Jeffers: Mr. John Hall, is the...at the time was the only inspector that DNR had to handle these inspections for the entire state of Indiana, came down and met with me and we went out and looked at each of these golf cart crossings and the dam about a year ago. I mean, he took the time to come down to the 92nd county.

Commissioner Mourdock: How did you play that day?

Bill Jeffers: It was raining. It was raining and we didn't get to play, but we got to see water going over top of that dam. We stood right there at the dam and looked at it going over the top of it. He told me he wasn't old enough to play golf. I don't know. He is ready to retire. He said he might take it up. I keep misplacing my agenda.

Commissioner Mourdock: We're on old business.

**Emergency contract for repair of Sonntag-Stevens**

Bill Jeffers: Okay, emergency contract on Sonntag-Stevens. That's the picture that Mrs. Jerrel passed to our office of the lady's yard that is washing away. We received the third quote this morning from a contractor who has done work on that ditch. We also have a quote from a contractor...well, we have three quotes now from contractors who have done work on that ditch in the last couple of years, but I am not ready to present those to you. They are sealed in envelopes and when we open them here in the meeting we are going to call it an emergency contract and proceed with the lowest quote. I think we can do that. I am presenting that to you at this time and if I don't hear anything different from your legal advisor I think that is legitimate. It's a situation where if we don't do something right now the lady is going to lose some ground. We got the last quote today and the crew didn't bring it back into me by close of business day so I don't have it to show you.

President Jerrel: There is no problem as far as either one of you are concerned?

Commissioner Tuley: No, if he wants to declare it an emergency and he'll review the three bids and then he'll award it. Right?

President Jerrel: Is that alright with you?

Joe Harrison, Jr.: I don't have any problem with that as long as it's an emergency--

Commissioner Mourdock: I'm not sure that's quite what he said. I think I heard you say you're going to bring it back next time?

Bill Jeffers: I will unless...can I bring it back and let you open it in a Commissioners meeting?

President Jerrel: I don't see why...if it's an emergency why couldn't we?

Commissioner Mourdock: I just want to be sure. I thought I heard you say that next month you were going to come back?

Bill Jeffers: I was thinking that, but, I mean, if I could come back in a Commissioners meeting and let you open it. I don't think I should open them in the office. I think they should be opened in a public meeting.

Joe Harrison, Jr.: Right.

Commissioner Mourdock: My only concern is just one of a legal definition here. It's hard for me to accept the fact that if you come back...if you tell us today a month from now you're going to come back and declare an emergency that might be a problem.

President Jerrel: Well, I think you're saying that you are ready to declare them an emergency now?

Bill Jeffers: I guess what I am saying is I feel like kicking that guy's tail for not bringing that last quote to me today and I might do it tomorrow. I mean, I really wanted to bring it to you tonight. It's an emergency.

Commissioner Mourdock: Okay, that's the key word I am looking for.

President Jerrel: Yeah. Well, we have a meeting at noon on Monday if you have it.

Bill Jeffers: Yeah, I'm sure we will. I bet it's in the Surveyor van right now.

Commissioner Tuley: What does it do to us delaying it a week? That's my question.

Joe Harrison, Jr.: This is what I would do though. Just to be legal, if we are going to declare it an emergency that's fine, but as far as opening the bids and awarding the bids what I would do is open the bids--

Commissioner Tuley: Do it Monday.

Joe Harrison, Jr.: Well, I think we ought to...I would prefer that we indicate somewhere, it ought to be published, that we're going to have a Drainage Board meeting after the regular meeting because of an emergency. Then we can award the bids at our next Drainage Board meeting after that which would be at the end of next month or else have a special meeting.

Commissioner Mourdock: Alright, I have two motions then. First, I move that we declare an emergency for the contract for bank repair on Sonntag-Stevens Ditch.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Commissioner Mourdock: Secondly, I would ask that we open the bids at the regular...at the regular Commission meeting?

Joe Harrison, Jr.: What I would prefer to do is say that you are going to have a Drainage Board meeting following the Commissioners meeting. Do you think you could wait until the 9th?

Bill Jeffers: Sure.

Joe Harrison, Jr.: Why don't we do it on the 9th.

Bill Jeffers: The only problem occurs when it rains real hard and water comes rushing down the ditch. That's the emergency.

Commissioner Mourdock: I'll move that we have a special Drainage Board meeting solely for the purpose of reviewing the bids for the bank repair on Sonntag-Stevens immediately following the June 2, 1997 meeting of the Vanderburgh County Commission.

President Jerrel: Yeah, and we can do that.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Commissioner Tuley: At that meeting is the intent then to open and award or are we going to come back again on the 9th?

Bill Jeffers: Well, I would just give it to the lowest bidder. They're all three good contractors and they have all three worked on that ditch with excavation equipment in the last two years.

Joe Harrison, Jr.: Again, just to be legal I would prefer that we do it at our regular scheduled meeting next month.

President Jerrel: But that gives a whole month.

Joe Harrison, Jr.: Well, I just prefer that we do it. If we're going to do it...the thing is we don't have Drainage Board meetings every week.

Commissioner Tuley: That's why we're going to call for a special meeting.

Commissioner Mourdock: We just declared this an emergency.

Joe Harrison, Jr.: Okay, well, we can award the bid at that meeting.

President Jerrel: That's what we're saying.

Joe Harrison, Jr.: Is that what you're saying? Okay, I'm sorry. I thought you were going to do it at a later time.

President Jerrel: No, it's an emergency and we're going to do it.

Joe Harrison, Jr.: That's fine. That particular meeting is going to be at noon on the 2nd.

Commissioner Tuley: Did you know that?

Commissioner Mourdock: Yes.

Bill Jeffers: What day is that?

Commissioner Tuley: No, I m asking him.

Bill Jeffers: Monday?

Commissioner Tuley: Next Monday our meeting is at noon.

Bill Jeffers: I ll have to skip lunch!

President Jerrel: No, you can come later. You ll be after that meeting.

Commissioner Mourdock: I m sure we won t be done at 1:00.

President Jerrel: No, we won t.

Commissioner Tuley: Go before.

Bill Jeffers: No problem, I ll be here.

President Jerrel: Okay.

Commissioner Mourdock: How about bringing lunch?

Bill Jeffers: I ll bring lunch.

Charlene Timmons: Am I advertising?

President Jerrel: Yes, we have to advertise.

Charlene Timmons: Obviously, just once because that is all I am going to get in.

Joe Harrison, Jr.: Yes, and we re going to say it s an emergency. You can put that in there.

Charlene Timmons: Okay, for the purpose of awarding...no.

Joe Harrison, Jr.: For the purpose of awarding--

Charlene Timmons: Opening and awarding bids.

Joe Harrison, Jr.: Opening and awarding.

President Jerrel: Emergency for Sonntag-Stevens.

Commissioner Mourdock: Sonntag-Stevens.

Charlene Timmons: Okay.

### **Azteca Waste Water Treatment Facility**

Bill Jeffers: Azteca Waste Water Treatment Facility, there had been some complaints about some effluent coming out there and going through Pond Flat Lateral B thence on downstream through Pond Flat Main. It kept coming into our office as a complaint because as you know we help you manage those ditches. The farmers are used to calling us. That s why it came to us. We referred them to Indiana Department of

Environmental Management and then I followed that up with a call to IDEM and they advised me that they had been aware of the situation since December off and on. These calls came into our office in March and April. I found out today that Azteca's subcontractor that manages the Waste Water Treatment Plant had sent a rep up from Texas to find out just what was going on and there has been a change of personnel at the Waste Water Treatment Plant in the last day or two. They expect that they will be in much closer compliance with IDEM's permit conditions in the very near future.

President Jerrel: I hope so because I'm getting lots of calls from the Darmstadt area.

Bill Jeffers: Okay. I didn't want to get too expansive on that, but I did want to let you--

President Jerrel: Okay, something is happening.

Bill Jeffers: --that I know you're getting calls, we're getting calls. We've contacted the appropriate state agency. They called back and said that they're aware of it and that they've had our local health department gather samples for them periodically and then I understand today there has been some positive action taken by--

President Jerrel: Azteca?

Bill Jeffers: --I think it is called MLR or MRB. Whoever the subcontractor is for the management of the Treatment Plant out there at Azteca has taken some positive steps to correct.

Commissioner Mourdock: Do you know, Bill, if there are any ground water monitoring holes out there?

Bill Jeffers: I do not know that, no. They're not required for what we are seeing which was dark brown effluent with a yellow foamy material floating on top that had an offensive smell.

President Jerrel: Oh, yes.

Bill Jeffers: It could be tracked all the way down to Nesbitt Station.

President Jerrel: Those bacteria are growing!

Bill Jeffers: Mr. Eldon Maasberg asked if he could say something about that and I will go ahead and give you the one claim that we have for payment. It's been signed by the Surveyor and it has the required attached paperwork for some herbicidal application to East Side Urban that we recommend approval of.

Commissioner Mourdock: I'll move approval of the blue claims.

Commissioner Tuley: Second.

President Jerrel: So ordered. Mr. Maasberg.

Eldon Maasberg: Thanks for letting me speak a minute on that. I've noticed they've been sprinkling too out there when it's raining. If it's raining or just ahead of a rain you know where it's all going to go, so is there a way of monitoring that so they don't sprinkle when it is going to rain or ahead of a two inch rain where you know it is all going to go down the creek? Hopefully, they are washing it away is what their idea is. You know, I don't live too far from it so I do drive by. Thank you.

Bill Jeffers: The fact of the matter is that the people that enforce the permit is the Indiana Department of Environmental Management and they've been made aware of it. The Clean Water Standards Act, or whatever it is called, kicks in whenever one drop of this stuff gets into a body of water. The closest body of water is the ditch. They have already made recommendations to the waste management subcontractor as to what to do about applying it to saturated ground.

Commissioner Mourdock: Bill, Mr. Maasberg's comment is a very good one and I am curious. When the county bought the 100 acres, 160 acres, and then leased it to Azteca, obviously, their whole purpose, and there is nothing wrong with this, but their purpose was to use it solely for irrigation for the discharge of that water into alfalfa. Were there any retention basins put into that? Probably not because it was just agriculture I guess. Do you know?

Bill Jeffers: Well, I think what I understood today was there were already some agricultural terraces or WASCB and that was the source of some of the problem that the effluent that was being sprinkled and trickled down into the agricultural detention basins and then went right down the stand pipe and out into the creek. I believe, if I'm not mistaken, that a representative from the Soil Conservation Service went out there in the last few days and advised...gave them some advice about how to stop that from happening.

Commissioner Mourdock: Okay, thanks.

Bill Jeffers: It's basically a function of sprinkling it at times when the ground and the alfalfa cover can absorb the waste water. I don't think the waste water is toxic. I think it is organic material generated from the--

President Jerrel: Well, it's a good growth culture for bacteria.

Bill Jeffers: Yeah, and it stinks real bad.

President Jerrel: That's where the odor comes from. Any further comments?

Bill Jeffers: Are there any others wishing to speak? I only have one piece of correspondence.

Charlene Timmons: I have got to change the tape first, please.

Bill Jeffers: Okay.

### **Tape change**

<b>Correspondence</b>
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Bill Jeffers: Maybe you all could just include Eldon's comments from the previous meeting into the minutes of this meeting and I'll say that Mr. Stoll has asked me repeatedly to review the plans for that timber bridge on Maasberg Road. I've not yet gotten to it and I guess I'll have to poke myself a little bit and get to it.

President Jerrel: Is that your motive, Mr. Stoll?

Bill Jeffers: He stays behind me pretty regular.

President Jerrel: I can tell that!

Bill Jeffers: I don't always accommodate him.

President Jerrel: I have never publicly thanked you for the reports that you gave us that relate to the St. Anthony/Ward Road/Oakridge and also Valerie's report. Could you read a letter before you leave? You don't have a problem with me giving that report to some of the homeowners out there or do you?

Bill Jeffers: Oh, no, anything that I give to your Board--

President Jerrel: Okay, alright. I was going to send them, you know, a copy, but I wanted ask you first.

Bill Jeffers: Sure.

President Jerrel: Okay.

Bill Jeffers: I appreciate you thanking me, but you don't have to thank me for anything that's part of my job.

President Jerrel: I know, but some things I get because part of people's jobs are not well done, so you haven't heard me thank very many people.

Bill Jeffers: Well, thank you for your compliment.

President Jerrel: Well, it's earned.

Bill Jeffers: The only piece of correspondence that I have already handed to your attorney and it is a letter from the Attorney General...Deputy Attorney General, State of Indiana, responding to representative Venita Becker and the question she had about basically does the County Drainage Board have the authority to conduct hearings and make rulings on this new statute about obstructions inside the city limits of an incorporated town or city. Her answer was yes.

Joe Harrison, Jr.: It also says that you have or the Surveyor's Office has the authority to investigate.

Bill Jeffers: Right, to enter onto the property.

Joe Harrison, Jr.: Yes. Such claims within the city.

Bill Jeffers: Within the city.

Joe Harrison, Jr.: That was one of the arguments in the lawsuit that he has filed that says you don't.

Bill Jeffers: One down and six to go! Thanks for indulging me tonight.

President Jerrel: Is there any other business to come before the Board? Hearing none, I'll entertain a motion to adjourn.

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 8:50 p.m.

*Those in attendance:*

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Eldon Maasberg  
Andy Easley  
Brian Price  
Jerry Atkinson  
Daryl Helfert  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

---

Richard E. Mourdock, Vice President

---

Patrick Tuley, Member

Recorded and transcribed by Charlene Timmons

Vanderburgh County  
Special Drainage Board Meeting  
June 2, 1997

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**Vanderburgh County  
Special Drainage Board Meeting  
June 2, 1997**

The Vanderburgh County Drainage Board met in session this 2nd day of June in the Commissioners' Hearing Room of the Civic Center Complex at 2:35 p.m.

President Jerrel: I would like to call the Vanderburgh County Drainage Board to order.

**Open and award bids - Emergency repair to Sonntag-Stevens Ditch**

President Jerrel: The one and only permissible action item is to open and award bids for emergency repairs to Sonntag-Stevens Ditch.

Commissioner Mourdock: I'll move that we open the bid award for emergency repair to Sonntag-Stevens Ditch.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: We received two sealed envelopes. One from Scotty Boiler Service and one from Staub Excavation Service, both bidding on the same project located at 4419 Clover Drive along the north line thereof in Sonntag-Stevens Ditch for repair of erosion. The engineer's estimate is \$905.

Joe Harrison, Jr.: Do you want the big amounts? Bid amounts?

President Jerrel: Uh-huh.

Joe Harrison, Jr.: Floyd Staub, their bid is \$985. Scott Boiler and Construction, Inc. of Chandler, their bid is \$1,365.

Bill Jeffers: The other person who was taken to the site was Terry Johnson Construction who, like the other two companies, has done work in Sonntag-Stevens of a similar nature within the last two years and did not reply.

Commissioner Mourdock: I move we take the bids under advisement.

Commissioner Tuley: Second.

Bill Jeffers: I would recommend at this time to let the contract to the low bidder, Floyd Staub.

President Jerrel: He wants to award them. Do you withdraw your motion?

Commissioner Mourdock: I withdraw the motion. I forget we're under an emergency situation.

President Jerrel: What is the motion?

Commissioner Mourdock: The motion is that we award the lowest bidder who was--

Commissioner Tuley: Floyd I. Staub at \$985. I'll second.

President Jerrel: So ordered.

Bill Jeffers: Thank you.

Page 2

Commissioner Mourdock: Move for adjournment.

Bill Jeffers: I'll notify that person and have him enter into a contract.

President Jerrel: Did you adjourn? Did you second.

Commissioner Tuley: I'll second, sorry.

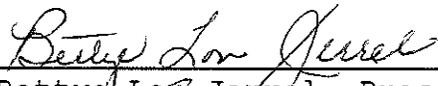
President Jerrel: Okay, so ordered.

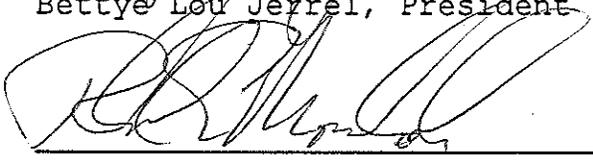
The meeting was adjourned at 2:39 p.m.

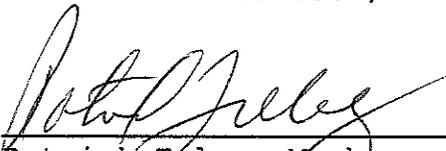
*Those in attendance:*

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Other unidentified  
Members of the media

Vanderburgh County  
Drainage Board

  
\_\_\_\_\_  
Bettye Lou Jerrel, President

  
\_\_\_\_\_  
Richard E. Mourdock, Vice President

  
\_\_\_\_\_  
Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
June 23, 1997**

The Vanderburgh County Drainage Board met in session this 23rd day of June in the Commissioners' Hearing Room of the Civic Center Complex at 7:30 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I would like to call the Vanderburgh County Drainage Board to order.

**Approval of minutes**

President Jerrel: The first item on the agenda is the approval of the minutes of May 27 and June 2 and they were in your packet.

Commissioner Mourdock: I'll move approval of the minutes as distributed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Signature on Sonntag Stevens Emergency Repair Contract**

President Jerrel: The next item on the agenda is action items. First is the Sonntag Stevens Emergency Repair Contract.

Charlene Timmons: That is just a contract for your signature. That was approved at the special meeting that was held on June 2nd and it was opened and awarded. It just needs a signature.

President Jerrel: Okay. The second item is the modification--

Commissioner Mourdock: Excuse me, do we need not also to approve the minutes of that special meeting?

Commissioner Tuley: We did.

Commissioner Mourdock: Oh, I thought that was just the regular. I'm sorry, okay.

**Cross Pointe, Section 4 - Modification of previously approved final plan**

President Jerrel: Okay, the next item would be the modifications of previously approved final drainage plans. The first is Cross Pointe, Section 4.

Bill Jeffers: Cross Pointe, Section 4 is located...the lot is located immediately behind Builders Square on the east side. The retention pond had to be modified because a portion of the embankment was over the top of a SIGECO high pressure gas transmission line, so they reconfigured it. I got another...they changed some of the lot lines to accommodate a purchaser of the lots who wanted larger lots rather than some of

the smaller ones up at the corner of Virginia and Cross Pointe Boulevard and that is the resulting plat. I asked for an emergency overflow from the end of the cul-de-sac into the retention basin which I got for you as a plus. The other details are added to the plat. I just wrote those handwritten notations on there for your benefit. Our office recommends approval of the modification to the final drainage plan for Cross Pointe, Section 4, as shown on that drawing.

President Jerrel: Is there a motion regarding Cross Pointe, Section 4?

Commissioner Mourdock: I'll move approval as submitted by the County Surveyor's Office.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Burkhardt/Lynch Commercial Pk - Modification of previously approved final plan**

Bill Jeffers: Is your second one Burkhardt/Lynch on your agenda?

President Jerrel: Yes, uh-huh.

Bill Jeffers: A very similar situation on Burkhardt/Lynch. You approved the final drainage plan a month or so ago and the person who was lined up to purchase Lot 1 decided they would rather be towards the middle of the subdivision and I believe...what is that? Lot 31. They chose to move to that site which had been platted as about five or six smaller lots. So that has now been replatted as one lot, numbered 31, that required the removal of about 400 feet of drainage swale and some of that swale was used as detention. They have provided an equivalent amount of detention in other swales within the subdivision and the pond and they've renamed that road leading up to that new large lot Frito Lay. They just swapped names there.

President Jerrel: Okay.

Bill Jeffers: With those comments and the handwritten comments on that plat you are looking at, the Vanderburgh County Surveyor's Office recommends approval of the modification of the previously approved final drainage plan for Burkhardt/Lynch Commercial Subdivision.

Commissioner Mourdock: I'll move approval of the newly designed drainage plan for the Burkhardt/Lynch Commercial Park.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**McJohnston Place - Waive certain requirements to enable IDNR permits**

President Jerrel: We have McJohnston Place. Is that correct?

Bill Jeffers: Yes, ma'am. I did not bring a drawing of McJohnston Place because we are not asking for nor or we recommending approval of a drainage plan at this time. What's going on is that the developer of McJohnston Place, which is along Seib Road north of Kansas just off the intersection of State Road 57 and Kansas Road, the developer is asking or is in the process of asking for approval of a drainage plan which places the retention lake partially within the floodway for Firlick Creek. That requires Department of Natural Resource approval in the form of a permit for constructing...for any construction in a floodway. I have this letter here. I'll give a copy to your secretary. It's not too long. I think I can read that into the minutes. Here is the plan for reference in case you want to know where the lake is at. This area down here is the lake and the dotted blue line represents the limited floodway, so it's partially within that. I don't really need to read this into the minutes. Basically, what they are asking for tonight is the Board's waiver of the requirement found in Section 1307.14 of the County Drainage Ordinance which requires the emergency spillway to be an open and automatically operating discharge that is capable of discharging the flow from a 100 year storm out of the basin and still have six inches of freeboard remaining above that flow. The reason for the requirement can be explained graphically. Before the ordinance was written we had a situation in Mount Ashley Estates where a basin was built uphill of other dwellings down in Brookview Subdivision. The open emergency spillway was not large enough to discharge the flow from a 100 year storm and when we had a couple of very heavy storms a year or two ago the water that couldn't go out through the emergency overflow went over the top of the embankment and down hill into some patio sliding glass doors in Brookview. So when we wrote the ordinance what we were trying to achieve is a spillway that was placed so that it directed this 100 year flow out of the basin and into a receiving channel or facility and while that flow was occurring there was still six inches of freeboard above the flow to the lowest place in the surrounding earthwork. That would of prevented what happened in Brookview. However, in the case of McJohnston Place, the emergency overflow will be directed at Firlick Creek if this design is approved by DNR and all of the flow from the 100 year storm will be directed right into the creek. Since it is in the floodway no dwellings can be built there so there is no reason for this particular requirement to be upheld. The second point is if we were to uphold this requirement the entire basin would have to be moved out of the floodway because DNR is not going to allow earthwork to be raised in the floodway to create the freeboard. We don't feel that the requirement is necessary to protect homes because all the homes will be on the uphill side of the basin and they will have a protective grade assigned to them by the Building Commissioners and therefore at this time we are recommending that the County Drainage Board waive the requirement for the one half foot freeboard per Section 1307.14 of the County Drainage Ordinance so that the developer may proceed with his design submittal to IDNR. Our recommendation is only to waive that half foot freeboard, but to continue to require an emergency overflow which operates opening automatically and will pass the 100 year flow safely into Firlick Creek without adversely affecting private or public property. The Surveyor is not

recommending any other part of the preliminary drainage plan at this time until our review is complete which will take place after DNR approves the detention basin design. In addition, the Surveyor continues to encourage the developer to locate the detention facility outside the floodway if possible.

Commissioner Mourdock: I move that pursuant to the recommendation of the County Surveyor's Office that we grant the waiver requested for McJohnston Heights Subdivision.

Bill Jeffers: You may have a person who would like to speak in the audience.

President Jerrel: Yes, are you Mr. Hynes?

David Hynes: Yes, I am.

Bill Jeffers: Do you have the letter that Mr. Nicholson sent? I have the draft form, I believe, he sent the finished form to the President of the Drainage Board. The draft is the same as the finished isn't it?

Bill Nicholson: Yes.

Bill Jeffers: I'll submit the draft form to your secretary for recording.

President Jerrel: Before Mr. Hynes speaks I have a question. Are the items as they appear on our agenda...is that the correct heading for C or it is not?

Bill Jeffers: No, that should not appear under modification of final drainage plans because we haven't approved the final drainage plan. I erroneously placed that under that heading.

President Jerrel: Okay, I didn't think it was final and I just wanted to make sure. Mr. Hynes.

David Hynes: Bill, one thing before you sit down. Did you say that you recommend in the future that retention ponds not be allowed in the floodway?

Bill Jeffers: No, I said that the Surveyor continues to encourage developers to locate their detention basins or retention facilities outside the floodway, but that is only for...because that's how we feel about it. There is no ordinance requirement that prevents the location of detention or retention facility within a floodway. It's just a long drawn out procedure that gets us all tangled up with DNR and we would rather they be located outside a floodway. However, there is nothing that prevents what we recommended to occur.

President Jerrel: Would you want to give your name for the record?

David Hynes: Yes, my name is David Hynes. I'm a resident at 10345 Seib Road. S-e-i-b. It's across from the proposed development. I'm here tonight just to bring up a few issues regarding the retention pond in a floodway. If a developer is

allowed to place a detention pond at any location in a floodplain without regard to its elevation two things can eventually happen. First, the rising water from the tributary will fill the pond and will keep the pond filled until the water recedes. If successive storms occur, even within a 12 hour period, the pond will most likely not have discharged enough storage to accommodate additional runoff created by the second storm thus you have defeated the purpose of the retention. No matter how well planned flood prevention is storms that generate floods occur randomly and unexpectedly. Therefore, I urge all of you to have all the available information in front of you. If the developer...excuse me. The developer was instructed to perform a flood study prior to drainage approval and I believe at this point DNR has responded to that in some way, but if the study were completed, and to my knowledge it has not been completed on a local level, the elevation of Firlick Creek during storm events of say one, five, ten and twenty-five year return periods will be available to determine how many times the retention pond would be filled by flooding in a given year. I don't believe approval should be considered on this request until information is submitted...this information is submitted to the County Surveyor's Office. Filling in the pond by creek flooding will also cause maintenance problems when Firlick Creek overflows into the pond. Silt and debris carried by fast moving water will enter the pond. This deposition will over time cause silting and debris buildup in the pond and maintenance problems will occur for the homeowners. The Vanderburgh County Drainage Ordinance was developed using several resources. One of these resources was entitled a General Ordinance Establishing Storm Water Drainage Control. In this model ordinance it states under a subparagraph entitled Detention Facilities and Floodway and I quote:

"If detention storage is provided within floodplains only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the regulatory flood at the location unless compensatory storage is provided."

I tend to believe that this statement was made a part of the model ordinance not only because of the reasons previously stated, but also for reasons I have yet to discover. The only control you have in your ordinance to protect against this happening is found in paragraph 1307.14 entitled Automatically Opening Emergency Spillways Required. Not allowing filling in low lying floodplain areas is urged by the county's Soil Conservation Officers. The Vanderburgh County Comprehensive Plan also addresses this issue. There are no protective measures the county has to prevent total filling of natural floodplains throughout the county. This is the only means by which the Board can discourage filling in low lying land. These lands are needed for volume storage when significant events occur. I urge the Board to take these concerns into consideration. Thank you.

President Jerrel: We have a motion. Before we have a second, Mr. Jeffers, do you have any comments.

Bill Jeffers: David Hynes explained very succinctly several of the reason why we encourage developers to locate their detention facilities outside of floodways, but, again, there is nothing in our local ordinance to prevent pursuing the design that this developer is pursuing. The model ordinance to which he referred was used as our model and many of the...not just the point that he brought up, but many of the...much of the language was deleted from our ordinance during its review period because it deprived developers of usable land. After all the floods that the midwest has suffered, there are many people who feel there should be no construction whatsoever in floodplains, however, no state law nor federal law exist at this time to prevent it. We are simply working within the framework we have to work within and continue to make the recommendation with regard to this project as we made earlier this evening. The letter from DNR that was not sent to our office, it was sent to Mr. Nicholson with a copy to the county Plan Commission, the Louisville District Corps of Engineers and Merrill Dougherty, Indiana Department of Transportation with an enclosed floodway map says that with respect to the replacement of State Road 57 bridge over Firlick Creek our staff, meaning Department of Natural Resources, has reviewed the hydraulic modeling of the new bridge configuration performed by the Indiana Department of Transportation which shows that any additional backwater effect created by the new bridge will not have an impact this far upstream. I called and questioned Mr. David Knipe, K-n-i-p-e, who is the Head of the Hydrology and Hydraulic Section of the Department of Natural Resources Division of Water, and asked him if that meant that his staff reviewed the hydraulic modeling performed by DNR which we have previously questioned because the flow rate they assigned at that bridge was 1,120 cubic feet per second during a 100 year flood and the flow rate assigned by the DNR to a bridge upstream of there at Kansas Road is 1,450 cubic feet per second and he said they also took the 1,450 and plugged it through that opening and it showed that it would raise the 100 year elevation of the flood one tenth of a foot at the bridge. I asked him if the water would stack up behind the bridge and he said no. I continue to have reservations about the Department of Natural Resources' method of arriving at this decision, but I'll enter this into the record and his phone number is a part of this letter and anyone interested may call Mr. David Knipe or his supervisor, Mr. James Hebenstreit, the professional engineer who signed the letter and ask them how they arrived at that decision. I am giving Mr. Hynes a copy of this letter.

President Jerrel: The motion is on the floor. Is there a second?

Commissioner Tuley: Second.

President Jerrel: So ordered.

<b>Keystone Subdivision, Section VI - Final drainage plan</b>
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Bill Jeffers: Okay, these are final drainage plans for your approval tonight. The first one is Keystone Subdivision, Section VI. It's a big gob of plans here that includes the plat, the final drainage plan and all the street plans. The

engineer who is in charge of designing this is Mr. David W. Schminke, of Morley & Associates, who is here in the audience and we have been over this thing all morning. We've made some modifications to it; very minor modifications to add some inlets to take additional water into the storm sewer system. You've seen this before. Do you all want to look at any part of it? It's located, basically, about a quarter mile west of Green River Road on the south side of Heckel. It's an extension of Keystone Estates from the east. You know, the very most eastern part is on Oak Hill Road near the intersection of St. George. This continues to be extended to the east. This is the eastern most extension of it. The notes you are looking at on that page are just green highlighted areas that our office consider to be emergency overflow channels that should be unobstructed by fencing. We asked that some of them be widened. We asked for some additional inlets. There are several other pages here of street plans along with some plans that Mr. Schminke has in his possession that have more notations on them. He is taking those back to the developer, who is also here in the...one of whom is also here in the audience, Mr. Biggerstaff, and they have okayed all of the notations we've made on these plans in red or green and they will appear on the final...on the street plans that go to Mr. Stoll and they will appear on the final plat that goes to the Area Plan Commission for recording and our office will check both the street plans and the final plat to verify that those changes have been incorporated. Like I say, right now some of them are red line changes. With that we recommend approval of the final drainage plan for Keystone Estates, Section VI, as marked up there before you.

President Jerrel: Is there anyone here that wishes to speak about this Keystone Subdivision? I'll entertain a motion.

Commissioner Mourdock: I'll move approval of the final drainage plan as recommended by the County Surveyor's Office for Keystone Subdivision, Section VI.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Eagle Crossing, Section 3 - Final drainage plan**

Bill Jeffers: The other final drainage plan brought requesting your approval is Eagle Crossing, Section 3, which is an extension of Eagle Crossing project to the west of Petersburg Road near Earle, Indiana. Likewise, this was submitted as was Keystone, Section VI, they were both submitted within the deadline, but because of the volume of review that we had for this Drainage Board meeting and some things that happened in between the time they were submitted and today, again, I had to meet with the developer, Mr. Bart Schutz, who is here in the audience, and his engineering representative, Daryl Helfert, from Morley & Associates, and we've been through these plans from about 2:00 this afternoon until about 7:00 this evening. Again, the only modifications that have to be made to these plans to meet all the requirements of the drainage ordinance is wherever you see orange or red we are asking that the easements be widened. The yellow ones were found to be correct. There is

a few places throughout the plans where we are asking for another two to three feet. In one case, oh, we're asking for a substantial increase in the width of that easement because along the south line of the project Mr. Schutz would like to leave the swale or the creek a little more natural as it enters the natural creek to enhance the beauty of the lots there and to separate them from the homes that exist to the south of him.

Commissioner Mourdock: Has the developer agreed to those wider easements, Bill?

Bill Jeffers: He is here to answer that, but it is my understanding and he wasn't very reticent about it, to tell you the truth, after I told him a couple of frog jokes. He also...there was a long discussion and quite a bit of study on the part of Mr. Schutz and Mr. Helfert with regard to the cost of the crossing down here because it was such a large crossing they tried several different materials to achieve an adequate waterway opening and some of the materials were far more expensive than others and they decided on an elliptical concrete pipe. There is another easement that we're asking that it be widened from 15 to 18 feet. All these modifications are very minor. It's just some things we came up with that we think would work better for him. He is here to answer those questions. Our main concern was getting that 100 year flow out of the streets or across the streets without going through homes and that is why we've added some widths and some statements about not being able to fence those areas. Again, those will all appear on the final street plans which Mr. Stoll will review. You will see them again as Commissioners and then they will appear on the final plat that goes to Area Plan Commission for recording and our office will check both the street plans and the final plat before it is recorded to see to it that those changes have been made. There may be people in the audience to speak and, of course again, Mr. Schutz is here to verify that he agreed to all the modifications. We do recommend that with those modifications being made the final drainage plan for Eagle Crossing, Section 3, be approved by your Board.

President Jerrel: Is there anyone here that wishes to speak? Is the developer or his engineer...do you want to...okay, do you want to come up and attest to it?

Bart Schutz: My name is Bart Schutz and everything that Bill brought up is what we went over and that's--

Commissioner Mourdock: Okay, and just for the record you do accept his recommendations for the wider easements?

Bart Schutz: Yes, sir.

Bill Jeffers: Did you enjoy the frog jokes?

Bart Schutz: Yes, sir.

President Jerrel: I'll entertain a motion for approval.

Commissioner Mourdock: I'll move final approval of drainage plans for Eagle Crossing 3 as recommended by the Surveyor's

Office.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: Are you okay on your tape.

Commissioner Tuley: Second. My mike wasn't on.

President Jerrel: Oh.

Commissioner Mourdock: Oh.

**Ashley Place - Preliminary drainage plan**

Bill Jeffers: The next thing on the agenda I have is Ashley Place. Is that correct on your agenda?

Commissioner Tuley: That's what is on ours.

Commissioner Mourdock: Under preliminary?

Bill Jeffers: Under preliminary plans. Okay. Ashley Place is a subdivision that is being developed by Mr. Rick Broerman of Three I Engineering. The drainage plans for the subdivision are coming out of the office of Easley Engineering. I believe Mr. Easley is here. I don't see Mr. Broerman, but he may be in the crowd. This particular plan...those marks are just review marks. I have already been through them with Tom Keith who works for Mr. Easley. I have sent him this memo which you can enter into the record if you wish that stated all of our concerns, I guess you would call them, about the plan and he responded. Let me see if I have his response anywhere. I'll give you our letter at this time and then I'll provide your secretary with the response when I find it. Basically, what we are doing here is telling Mr. Keith these are the things we are going to be looking at before final approval. He has already adapted the plan to handle most of them. The only thing, again, that we are going to be looking at...the main thing is the width of the easements to make sure that there is adequate protection during heavy storms to get the heavier storm water through the project. The only other thing is that he is constructing the detention facility in 100 foot SIGECO high powered transmission line and there is a letter from SIGECO...there is a new letter from SIGECO. Here is the new letter from SIGECO dated June 18, I'll enter that for the record, that grants permission to locate that detention easement and relocate the main creek channel through the SIGECO easement in order that this plan can be accomplished. I'm sure that SIGECO will want to take a look at the final drainage plan just like they have this one to make sure that these parameters have been met. This is a very complete set of plans for a preliminary drainage plan and it will require very little modification to make it a final drainage plan. We are concerned about three lots at the far east end of the subdivision. There is a lake...a little bit east is a lake immediately east of those three lots. The lake is owned by a fellow who is here in the audience and would probably like to have a say about it. Part of the dam for the

lake is actually within the boundaries of this proposed subdivision. That happened because at one time one family owned the entire parcel of property that is now split up between a couple of subdivisions and the boundary happened to be drawn right through the dam of that lake. We feel like there are some issues to be resolved before the final drainage plan is brought to you. If those issues cannot be resolved then we would not recommend building houses on at least one lot and possibly three lots that are affected by the location of that lake. Having said that, and other than that, our office, the Vanderburgh County Surveyor's Office, recommends approval of the preliminary drainage plan for Ashley Place. Like I said, the engineer is here and I'm sure there is at least one person from the neighborhood who would like to speak.

President Jerrel: Just because I am not real good at reading maps I can't tell, does Eichoff Road run all the way through up to there?

Bill Jeffers: Okay, to the south of this subdivision Eichoff Road extends from the intersection of Eichoff and Hogue Road north to this point here to the...there is one property between the end of the pavement and the corner of the subdivision. Now, they've worked out in Area Plan Commission...right, Area Plan Commission required that the developer work out some agreements to make sure, and this is all according to Mr. Stoll's and EUTS' recommendation, that they acquire enough right-of-way to have that 55 foot right-of-way. They've done that. Now, this portion here, they're dedicating that themselves, 20 foot, in anticipation that if someone would like to develop the land to the north of here or to the west of here that they acquire whatever would be necessary to extend Eichoff Road up to here. In other words, this developer says--

President Jerrel: There is no road here now?

Bill Jeffers: There is a dirt or gravel pathway.

President Jerrel: I just couldn't read that. That's all.

Bill Jeffers: That's what these lines represent.

President Jerrel: Yeah, okay. Okay, is there anyone that wishes to speak concerning this plan?

Terry Chronert: My name is Terry Chronert. My property touches this retention pond. I just have a couple of questions regarding the layout of this detention plan in regards to where it's spilling off particularly in Lots 51, 52 and 53. I just want to express to you guys that last week we had a rainfall which took about an eight foot ditch and the rain that we had I would say that was about two feet from the top of the ditch or about five to six feet deep and with the flow going into that retention pond as quickly as it did, or will if it's there, the question is there are two spillways and one is a natural drainage that comes out of it and then there is one that comes up and goes north just a bit and it appears that it is going to be going into a 100 year floodplain and we just wanted to know where this is going to be exhausting out or spilling out because

it is obvious that this retention pond is going to be too small particularly with what happened last week? Besides the three that are up against the lake there who are in question regarding 51, 52 and 53 as well.

Bill Jeffers: It's 51, 52 and 53. Okay, what this gentleman is saying is absolutely correct. The water enters...which property is yours? You own the last house on Chapel Hill?

Terry Chronert: I'm right in here.

Bill Jeffers: Okay, the water enters this retention pond through one tributary here...or the proposed detention pond and then down through this relocated tributary here.

Terry Chronert: There's got to be another one that--

Bill Jeffers: Well, they're relocating it to here. There is one that comes in through...they are going to pipe that down through the streets, okay? Now the 25 year outlet is right here and it goes through this pipe between Lots 52 and 53 and discharges out through underground pipes. Through about a 54 inch pipe, I believe it is, right here off the site and back into this tributary of Wolf Creek.

Terry Chronert: Which is now Nurrenbern right down through there.

Bill Jeffers: So what we did in our office was we asked Mr. Keith who works...Tom Keith, who works for Mr. Easley, to assume that this outlet was fully plugged during a heavy storm and then calculate the backwater from a 100 year storm as if it were occurring while this pipe was totally plugged and then give us a spillway for that excess flow that would flow between Lots 51 and 52, because that is where he choose to put it, and the blue hatched area that you see there is the extent of the flooding which would occur if we had a 100 year rainfall with that pipe plugged and the emergency overflow operating between these two lots and spilling out into the street system and then over the top of the curb into Wolf Creek. You can see that...I wouldn't want to own Lots 51, 52 or 53, but because you have a very...I mean, you would be protected from the flood--

Andy Easley: There would be no inundation of any carpet right?

Bill Jeffers: Right. The finished floor elevation is given two feet above this occurrence. I wouldn't want to own them because I wouldn't want to take care of the detention basin.

Terry Chronert: What would you see out your side window?

Bill Jeffers: You would see a lot of water.

Terry Chronert: That's right.

Bill Jeffers: Right, it might happen once or twice in a decade.

Terry Chronert: Case of beer (inaudible comments not made at

microphone).

Andy Easley: The frogs will be very happy.

President Jerrel: Is there anyone else that wishes to speak to this preliminary plan?

Kimber Hedden: Kimber Hedden and my wife Sharon are here. We are property owners adjoining the east. As Bill referred to someone that owned a pond, we're them.

President Jerrel: That's down here.

Kimber Hedden: On this first print here these are going to be separate pipes going underneath the ground?

Andy Easley: There is the primary overflow that will handle the required discharge--

Kimber Hedden: That's an underground pipe?

Andy Easley: It's an underground pipe and if it gets plugged then we were asked to show what would be the maximum high water as the water found its way over to the other drainage structure and into the tributary of Wolf Creek.

Kimber Hedden: This is surface water here?

Andy Easley: That is a swale between two houses.

Kimber Hedden: That would be surface water? That would be on the surface?

Andy Easley: It would flow on the surface in the event that this clogged.

Commissioner Tuley: This is the 100 year event and this is clogged?

Andy Easley: That's right, yes. We can handle a 100 year event if this overflow fails.

Kimber Hedden: Alright, you're showing the detention pond will back water up in this area?

Andy Easley: That's correct.

Kimber Hedden: You can build a manmade structure on your property and back water onto another person's?

Andy Easley: For a short period of time just as it floods backwater. Mother Nature backs water on properties.

Kimber Hedden: But if it is not backing water...nature isn't backing water there, but you can build a structure and back water on to a--

Andy Easley: Well, in the event...it wouldn't back up ordinarily if it--

Kimber Hedden: I didn't say that. Let's go the 100 year when this is at maximum capacity, this is overflowing and you're showing you are putting water on other people's property. Period.

Andy Easley: If there would be something clogged that, yes, any place in the county if something gets clogged up water will back up. It happens on street intersections, it happens on some of the spillways on your lake can clog.

Kimber Hedden: But this isn't happening now because this is all open.

Andy Easley: That's correct. We were asked to show what would happen if, if, if.

Kimber Hedden: Alright. I'm just asking in the state of Indiana can a person build a structure and put backwater on his neighbor's property off of the property the person is building the structure?

Andy Easley: Sometimes we are required to by drainage ordinances.

Kimber Hedden: Alright. I'm not familiar with the drainage ordinance in the state of Indiana.

Andy Easley: That's what we are being required to do.

Kimber Hedden: Okay. As Bill brought up, this pond here...all this land was previously owned by one owner. Rick Broerman bought a section of it and developed it. The property line comes up with the west side of the dam being 75 percent on this property that he is now developing. There are large trees growing in the dam and it is subsurface water leaking. I think it presents a problem. I don't know what their resolution plans to be.

Andy Easley: Well, the dam is leaking on downstream property. Have you ever thought of trying to repair it?

Kimber Hedden: Yes, sir. We've done some repair. Rick Broerman, in 1986, gave me a photograph of it where they did extensive repair work. It didn't work. It didn't hold. The thing of it is the property line comes up through the dam and the dam at that point is quite high. Probably eight to ten feet. You've got large trees growing on it. What if this sub developer...or the developer decides to level that? The dams going to--

Andy Easley: Well, Mr. Broerman said that...I attempted several times to get a hold of you and I could never reach you and I had to go out of town on a trip. We could give an easement on that lot for 20 feet or so to repair the dam if you ever needed it.

Kimber Hedden: Why would I want to repair your dam?

Andy Easley: No, it's not. It's your dam.

Kimber Hedden: No, sir.

Andy Easley: It's your lake.

Kimber Hedden: The property--

Andy Easley: It's your lake isn't it?

Kimber Hedden: The property line of the dam, due to your own surveyor, comes up--

Andy Easley: I didn't survey that line. Somebody did prior to partition the property prior to my getting involved in it. Mr. Broerman or someone partitioned it, but we're trying to cooperate if you would like to have an easement we could give you an easement.

Kimber Hedden: I don't want an easement on your property.

Andy Easley: You don't want an easement?

Kimber Hedden: No, why would I want an easement on it?

Andy Easley: Well, you might want to repair your dam, your embankment.

Kimber Hedden: Well, sir, the embankment is owned by your client according to your own engineers.

Andy Easley: You would have an easement to repair the embankment that impounds your lake and it's a gesture that I would encourage you to accept. It would give you the right to enter upon the property.

Kimber Hedden: Bill just stated that all these items had been approached. I was in your office this past week--

Andy Easley: Yes, and I guess I just missed you. We're willing to cooperate with you--

Kimber Hedden: Well, fine, but there has been statement made that all these items have been approached and they haven't been.

Andy Easley: Well, this is preliminary. You know, prior to final approval we can reach an agreement. If you don't want an easement then--

Kimber Hedden: Well, a man comes up talking about a legal issue and pops you right now and wants an answer I don't think that is right to want an answer immediately.

Andy Easley: Well, I think the easement was brought up before wasn't it?

Kimber Hedden: No, sir.

Andy Easley: Didn't you request an easement?

Kimber Hedden: No, sir.

Andy Easley: You never did?

Kimber Hedden: I have never talked to anybody.

Andy Easley: Well, I was thinking--

Kimber Hedden: Keith in your office did say we...they had advised Rick Broerman that he should approach me and work something out.

Andy Easley: Yeah, and I apologize for not being able to contact you, but I did make that effort.

Kimber Hedden: Well, we've been at home every night.

Commissioner Mourdock: If I may make a suggestion to keep this moving along. As Mr. Easley just said, and as Bill Jeffers said, this is for preliminary consideration this evening, so obviously even though most of, and I am paraphrasing what Mr. Jeffers said, while there is a lot detail here in the final plan and the history of working with this particular developer/engineer has been good. Between now and when final approval takes place certainly there are a number of chances for the two of you...I hear you both saying that you want to cooperate, so I would ask you to do that.

Kimber Hedden: Yeah, but when they make a statement that all these items have been approached, they had not been and that's not true.

Commissioner Mourdock: Okay.

President Jerrel: Well, that is on the record now.

Commissioner Mourdock: Thank you, Mr. Hedden.

President Jerrel: I'll entertain a motion for preliminary approval.

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered. Mr. Jeffers.

**Waterford Place - Preliminary drainage plan**

President Jerrel: Okay, we have Waterford Place.

Bill Jeffers: The next subdivision to come before you with a preliminary drainage plan is Waterford Place. It's a commercial subdivision in the southwest corner of the intersection of Vogel Road and Burkhardt Road. Again, it's up for preliminary approval and we've made some notations on there that we have basically discussed with the design engineer, Mr. Jim Farny, of Bernardin Lochmueller & Associates. His client and the developer, Mr. Joe Ream, is here with him tonight. Attached to that is a letter...the latest letter I transmitted to Mr. Farny. I'll give a copy to your secretary. Basically, everything east of that orange line I have drawn down Tudor Lane will go through

existing pipes to Crawford Brandeis Ditch or after the widening of Burkhardt Road it will go through whatever facilities are provided into the pipe for Burkhardt ditch...or for Crawford Brandeis Ditch. The rest of the area, about 30 acres, drains to the west into Stockfleth Ditch. The individual lot developers of each of those lots will be responsible for submitting drainage plans at Site Review Committee meetings for approval by the County Surveyor whose office will verify compliance with the County Drainage Ordinance and with the final drainage plans for Waterford Place as approved by you. The developer of Waterford Place, Mr. Joe Ream, or his heir or assign makes the commitment to construct all of the detention facilities that may be required by the County Drainage Board on the recommendation of the County Surveyor if the required detention volume is not achieved by the individual lot developers, so then he shows a ponding area back in the southwest corner where he proposes to make up the difference it need be. We have marked up some adjustments we would like to see made to the future drainage basin, nothing critical just some easement lines. The developer is also asking at this time that the County Drainage Board relax the maintenance right-of-way for Stockfleth Ditch which is an urban drain. To relax it to a line 50 feet of and parallel with the west line of Waterford Place as shown on that plat. That would give us about 35 feet of maintenance room between the top of the bank outward towards the end of his ground. The County Surveyor recommends the relaxation of the right-of-way. It is allowed by statute and we make that recommendation with the understanding that all the land within the 50 feet of right-of-way and outside the top of the bank of Stockfleth Ditch remain flat, grassy, unfenced as a maintenance pathway and an unobstructed access for the equipment we feel is necessary to go in there and maintain that ditch. Other than that and the other comments made on this document, which I am asking to be made a part of the record, having said all that we recommend that the Vanderburgh County Drainage Board approve the preliminary plan for Waterford Place Subdivision. Like I said, the developer and his engineer are in the audience. I would also like to enter into the record his response to our previous letters.

President Jerrel: Is there anyone that wishes to speak? Entertain a motion.

Commissioner Mourdock: I'll move approval of the preliminary plan for Waterford Place with the points of understanding that Mr. Jeffers highlighted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Jarboe Subdivision - Preliminary drainage plan**

Bill Jeffers: Is the next one Jarboe?

President Jerrel: Uh-huh.

Bill Jeffers: Okay, Jarboe Subdivision is actually a minor subdivision which normally would not come before you as a minor subdivision. It is the division of a parcel of property into

two lots, but due to a requirement of the Area Plan Commission Subdivision Ordinance it is being called a major subdivision, and I believe and you can check this with your engineer, County Engineer, but I think it is because it requires 40 foot of right-of-way to access back to the proposed new home site which is on Lot 1. So therefore, you'll find down there on the plan a cross section entitled Minor Drive, which depicts what the engineer is representing, the client's engineer, is representing as a minimum county standard for a gravel road. Twenty foot width of gravel pavement, six foot shoulders sloping down into side ditches all within the 40 foot right-of-way. My notes on this plat are when the road is improved according to the Minor Drive standard, the owners should take care to preserve the existing drainage pattern as shown on this drawing. Two, that the pipe which is going to be required or possibly be required when the driveway is built back to the proposed house on Lot 1 may cross a natural watercourse and if it is not installed properly could result in an obstruction of a natural watercourse therefore he should go back to the engineer, ask for a pipe sizing and install head walls in either end of that pipe and depress the pavement over the top of that pipe so that a heavy flow of water can pass over it without backing onto his neighbors and causing them to come in here filing a petition to remove an obstruction in a watercourse. I don't want to see them. I would love to see it done right. With those comments, the Vanderburgh County Surveyor's Office recommends that the County Drainage Board approve the preliminary...well, let's just make this final.

President Jerrel: Now, we have someone that has been patiently waiting.

Bill Jeffers: Let's make it preliminary then.

Commissioner Mourdock: Yes.

President Jerrel: Yes.

Commissioner Mourdock: She's been waiting extremely patiently.

President Jerrel: Could you show her on the map--

Bill Jeffers: Oh, okay. You may take this copy...well, I better make a copy of it. I'll tell you what, here is another copy of the whole submittal. You don't have to open that up now you can look at this one, but he is proposing to bring the road in from St. Wendel--

Dolores Goebel: He doesn't have any frontage there. How can he build a subdivision out there?

Bill Jeffers: They're showing a 66 foot right-of-way fronting St. Wendel Road and then there is some shared driveways coming back to a certain point.

Dolores Goebel: It's like a lane right now.

Bill Jeffers: Right, a rock lane.

Dolores Goebel: There are one, two, three people using the lane.

Bill Jeffers: Where his property line starts he is showing a 40 foot right-of-way for what he is going to call Jarboe Lane going back to the new home and then continuing back to the existing house here.

Dolores Goebel: How much acreage does he have here?

Bill Jeffers: It says that Lot 2 has about two and a half acres. A little over two and a half. Lot 1 has a little over two and a half. You would have to look at the description--

Dolores Goebel: They have to have two and a half to have lots.

Bill Jeffers: To have a septic field, yes, that's right. Now there are a lot of issues here that will be covered at the Area Plan Commission Wednesday, the 2nd of June.

Dolores Goebel: July 2nd.

Bill Jeffers: I mean July.

Commissioner Mourdock: The first Wednesday in July.

Bill Jeffers: Second or third. You have a letter on that right?

Dolores Goebel: Yes.

Bill Jeffers: Okay, there will be a lot of issues--

Dolores Goebel: I don't have anything--

Bill Jeffers: --regarding frontage, traffic and all that. What I am trying to do is to prevent him from obstructing this watercourse. There is a little creek that runs back through there and when he puts a pipe in for this driveway that it be large enough to let the water continue on down here and not back up on these neighbors. That's what I am after.

Dolores Goebel: This is me over here.

Bill Jeffers: Okay.

Dolores Goebel: I don't have anything against it. I just wanted to know how he proposed doing it.

Bill Jeffers: Do you want to take that copy with you?

Dolores Goebel: If you don't mind.

Bill Jeffers: That's fine, it's an extra.

Dolores Goebel: Okay, thank you.

Bill Jeffers: Yes, ma'am.

President Jerrel: Thank you.

Commissioner Mourdock: Thank your for your patience.

Bill Jeffers: Would you like to enter your name into the record.

President Jerrel: Oh, I'm sorry. We knew who she was.

Dolores Goebel: Dolores Goebel, 13325 St. Wendel Road.

President Jerrel: Okay, thank you.

Commissioner Mourdock: Thank you for your patience.

President Jerrel: Is there anyone else that wishes to speak to this? If not--

Commissioner Mourdock: I'll move on preliminary approval the drainage plan for Jarboe Subdivision.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: We'll come back after Area Plan Commission and...the plan, I don't expect it to change at all unless for some reason there is an actual pipe size on it and then we'll make it final.

President Jerrel: Okay.

#### **Blue claims**

Bill Jeffers: All the claims that we have to submit to you are on work that has been performed on regulated drains in Vanderburgh County up to this date, have been inspected by our inspectors, Mr. Josey, James Josey, and Don Scheller and they are signed by the Surveyor and have the required paperwork attached to them also signed by the Surveyor. It is the Surveyor's recommendation to pay these claims.

President Jerrel: I would entertain a motion.

Commissioner Mourdock: I'll move approval of the claims.

Commissioner Tuley: Second.

President Jerrel: So ordered.

#### **Al Buck - Approval of detention basin Ward Road/Knob Hill Drive**

President Jerrel: We have some old business, Mr. Jeffers.

Bill Jeffers: There is one fellow that I noticed came in. It's Mr. Al Buck who came in the office today with some pictures of his detention basin at the intersection of Knob Hill Drive and Ward Road. Here is the pictures to show that he was, in his opinion, was finished with the detention basin and wanted me to inspect it and recommend approval of it. I wasn't able to get out there until about 4:30 or 5:00 this afternoon and I did

inspect it and I am not ready to recommend approval of it. I apologize to Mr. Buck for not being able to contact him when I got back to the office at 6:00. I'm sorry he had to make the trip to come down here, but at this time the detention basin does not meet the minimum requirements for a dry detention basin in accordance with the Vanderburgh County Drainage Ordinance and I'll be happy to discuss that with Mr. Buck at a date later in the week.

**Old business**

Bill Jeffers: Is the other item of old business would that be Anthony Drive?

President Jerrel: Yes, we have Mr. Bell and some other neighbors. We've been communicating with them...did Mr. Harrison leave?

Commissioner Mourdock: He's right here.

President Jerrel: Oh.

Commissioner Mourdock: He is just hiding.

Commissioner Tuley: He's hiding behind me.

Bill Jeffers: It's unusual to have a lawyer be so quiet.

President Jerrel: I know, I know.

Bill Jeffers: It's great!

Commissioner Mourdock: Yeah, and pleasant!

President Jerrel: We talked about some of the--

Bill Jeffers: I'm sure he'll get even with me for that.

Commissioner Mourdock: Yeah.

President Jerrel: You did get...Mr. Bell, did you get the letter? I'm mean, I don't know where to go from here.

Robert Bell: Which letter are you referring to?

President Jerrel: The one that Mr. Stoll sent you.

Robert Bell: Yes, I did.

President Jerrel: Okay, well let's start with that because that was some alternatives that Mr. Harrison suggested we ought to take a look at. Do you have...John, did you bring a copy of that letter so that they could see? We can make some if you...thank you. Let's just start at the beginning. We did have...at our June 16th meeting we talked about this. It wasn't a drainage, but we talked about the issues that had come up and the recommendations that have been made, so we asked them to get something, John, to get something to you so we could, you know,

at least have a beginning and talking point. We don't have the map in front of us, but we talked about the "what ifs". Correct me, some authority here correct me if I don't say this correctly. The water as it comes down Ward Road...what they want the water to do is the water that is on the west side of Ward Road to go down those ditches and the east side to not commingle with that. That isn't what happens because the fact that at the northern most end of Mr. Halcomb's property it zips across the street and that is where we start getting the increased flow behind your property and down all of St. Anthony and the increases. We were looking at some opportunities and the first one was would you and your neighbors be willing to pay for drainage improvements through the Barrett Law? You heard a bunch of that this evening. With this law the county could construct drainage improvements, but all costs of the improvements would then be divided among all property owners who benefit from the improvements. The second one was would you and your neighbors be willing to maintain open drainage ditches along Anthony Drive? Typically, when the county puts ditches in areas that currently have no ditches the county receives numerous complaints about the fact that the property owners do not want to maintain the ditches and the complaints that we receive usually relate to the appearance of the ditches. The third one, would you and your neighbors be willing to pay for all pipes needed? If open ditches were installed along Anthony Drive all property owners would then need pipes and typically when residents are not directly impacted by drainage problems they do not want open ditches and they do not want to purchase driveway pipes. I'm abbreviating that. Four, if it is a viable solution, would you and your neighbors along Anthony Drive be willing to dedicate drainage easement along the north property line of your properties? That is where the natural swale is in back and that ditch is already there that then shoots the water between your two houses. The intent of this ditch would be to intercept the water before it gets to all of your houses and direct the water to a 30 inch pipe that runs through Oak Ridge Subdivision if this is a feasible solution. So do you have some--

Robert Bell: I would like to put...my name is Robert Bell for the record, please. I received this letter, of course, not discussing with anyone else about it other than the neighbors around me. I would like to take...it seems like this thing has grown into a great big animal for no reason at all. We've made proposals not spending a lot of taxpayer's money to help correct our situation. Since the last big storms that we've been having, we've been doing some researching ourselves. I sit here in the audience and listen to these new subdivision that is being built and the discussions about what will be done to protect 20 years from now a situation such as what we have in our neighborhood. It really is rubbing me in a wrong way. In a very wrong direction. Since the time you were out with Valerie and talked to us about our problems, and we spent some time walking and got our exercise, we have taken and done some more looking in to and we find that we've got a lot of easement problems and situations such as you guys...you people are putting on these new developments that has created our problem. Our problem doesn't exist on Anthony Driver per se. It starts up the hill. With going...coming downtown here and getting

easement rights, public information, we're finding out that so much has been let go by the wayside over a period of time that was directed to stop our problem. One of the neighbors that I have just met in the last couple of weeks, less than that actually, the last four inch rain we had, lives on the west side of Ward Road has been there 38 years and stood there in the driveway and explained to me how this monster has developed over 38 years. Now they're getting sewage backed up into their houses through city sewers, county sewers. The odor in our neighborhood after the last four inch rain was absolutely awesome. It was like living in a cesspool which came down the hill. By, again, me coming downtown and looking behind those homes are 12 foot easements for water runoff only as stated on those easements that are to take that water from the top of Knob Hill or Melody Hills, whatever you want to call it, from up at Dussendorf and the Ward Road area down to St. George Road to keep it from shooting into the houses across Ward Road, into my house down the street to 25 other neighbors and then to Mr. Rucker's house in the new development. After doing this, the concern comes to mind that with the proposals that were made by Mr. Stoll of running the water down Anthony Drive, as it has been proposed, if we would say that we would put ditches in, we would pay our tax dollars and do this, which we feel like we pay tax dollars anyway, all of that is going to be dumped into a tile that now goes through the development at the bottom of the hill. Mr. Rucker, the name of it? I'm sorry, I went blank. What is the name of your development?

Myron Rucker: Oakridge.

Robert Bell: Oakridge, on out to Oak Hill Road which then goes into Licking Ditch, I believe, or creek I think it's being called, which is now getting 400 houses and another partial of it was just okayed, again, with the idea that one meeting a year ago the discussion was that we need to have an opening big enough for us to mow that or whoever is going to be in charge of that creek that won't take the water anyway. The churches on the west side of Ward Road...I mean, Oak Hill Road one is for sale and probably won't sale because it has been in water three times this year already, but yet that is the proposal to take that water on that a way. All we asked for was help in getting water out of our area. When we look at the fact that we can go down Ward Road on the east side where we told that by Valerie when she was out there that it could be done and that is take and ditch it and change the ditch that is turning the water down on me and my neighbors and take it on out to St. George Road.

President Jerrel: Do you have your map with you?

Commissioner Mourdock: I can draw it for you.

President Jerrel: Well, I can too except I was going to show...we ran into a snag. John, could you come up to the mike in case you remember what we are talking about where the easement...you get down to the plot on the east side of Ward Road south of St. Anthony where the easement, you know--

John Stoll: Oh, where the right-of-way--

President Jerrel: Yeah, right-of-way.

John Stoll: It's not specifically defined.

Robert Bell: Where it goes from 40 at the top to 30 foot at the bottom. That's in the actual Mullen's area?

President Jerrel: Right. We asked him to find out where and how because there is an obstruction at the bottom of that where the water at the end of St. George would go.

Robert Bell: Do you want to get on the floor with me, John? I can't believe this. What I am looking at is the basic actual areas that we're talking about and what we had as far as right-of-way and we showed it on these...if you would bear with me I'll find them...that goes all the way from the top of Knob Hill at 40 feet to the corner of St. George Road and Ward Road of 30 feet. The ditch already is there. When you get to corner...I don't think it's in there...when you get to the corner at the Mullen's, the tile that goes underneath that road to direct the water has collapsed and needs maintenance anyway because that floods over and almost goes into the convenience store on the corner from us anyway.

President Jerrel: What we asked is to find out what would be the capacity of the drainage at the base of St. George Road if you direct it? I recall John's words, I think they were John's, they might have been Bill's, that we were going to try to keep the west side water staying on the west side to go...what's the name of that? The legal drain down there on St. George?

John Stoll: Sonntag.

President Jerrel: Sonntag, okay.

Robert Bell: This shows it down past Anthony Drive still holding at 40 feet. I'm looking for the Mullen's division which would be the one on the end of the corner. That's again the Anthony. We had to do these in sections off of that machine and I am having problem finding that, but it does show it all the way to the end of the street at 30 feet.

Bill Jeffers: When you say 30 feet that's one half the way?

Robert Bell: Yes, sir, from the center line to the edge in. From the center of the road, if I am reading this right I'm not...but it says from center point center of the road 30 feet that a way. My point is and I please want to understand what you folks are saying because it can be found here of what is the problem when the ditches lie there and we only have two homes that don't have ditches in front of them anyway? The rest of it is already ditched and tiled to take that water out that way.

John Stoll: I doubt all those pipes all through there were ever sized to handle that water and everything additional we throw that way would just push the problem elsewhere.

Robert Bell: It doesn't get any water to it to handle now anyway. The only water that gets to it now is what goes down

the west side of Ward Road, then can not go in front of I call the parsonage, which is the house next to the church. I think that is where the preacher lives. It stops there and shoots across the street and runs into them anyway because it will not go through that drain that runs down underneath that church and it eventually ends up down there outside...about half the property distance on St. George Road a tile comes out and that is supposed to be the drain to alleviate the water off of Ward Road on that side. It runs out of there as long as it can sit there, but it will not accept it because normally it is blocked, clogged or whatever and it shoots across the road anyway.

John Stoll: (Inaudible) comes right back though.

Robert Bell: Yeah.

John Stoll: I mean, it's the same water. It's the same water. It is coming down on the west side, jumps across the east side, comes back underneath the pipe underneath Ward, correct, and then heads west?

Robert Bell: If Ward had a pipe under it. It will not drain.

John Stoll: Right, I know that doesn't work.

Robert Bell: It goes all the way over the top of Ward Road.

John Stoll: Right.

Robert Bell: That is what keeps you people, the county people, out there patching those places already. The thing that totally amazes me and I know why they did it, but I called Mr. Tuley about it and he returned my call and I was very concerned because the project on Ohara Drive which is concreting the streets I understand is a project from a year or two past. Okay?

President Jerrel: Uh-huh.

Robert Bell: They come down there and went to great extent to dig that out and put a drainage pipe underneath there so they could pour the new concrete on it. I know they did that because they were bring new concrete in from the street. Water don't even get there. It's never had a pipe under it. I know they did it because they are going to lay a new street over the top of it, but in the place where it so desperately needed one block up the street...I called him because I thought they were at the wrong corner because they hadn't started tearing the street up yet.

John Stoll: There was a pipe underneath there according to what Milton Hayden told me. He said that when they did rip it out they did find a pipe. It was just so silted in that it was not even remotely affective.

President Jerrel: On Ward Road?

John Stoll: Underneath Ohara along St. George.

Robert Bell: That was the best piece of concrete they had out there in some time and I am sure they just concreted over the top of it, but that was a new section just right there over the top of that drain. That's neither here nor there. That's not our problem. The water runs from that intersection back to the drain that goes underneath the street there on St. George Road. The water that is supposed to come underneath Ward Road comes down there to that pipe and runs underneath it. We've got a nice big ditch down there that they've just been cleaned out down there and I think the Warehouse or Whirlpool people did it. A humongous ditch. It never got much over six inches of water in it any time we get a toad strangler because of the fact that the water is not getting there. It's there plenty adequate to accept anything that will go from there on down towards Pigeon Creek.

Commissioner Mourdock: Let me--

Robert Bell: Now my question was, Valerie brought it up and she said I can't imagine what we are going to do if we keep taking, and we were standing out there discussing this, that Pigeon Creek can't accept this water anymore. Okay? We've got a problem totally in Evansville, Indiana or Vanderburgh County, but when you turn right around and go down there two weeks a month later and they are building two new commercial businesses on Hitch Peters Road, which is under water which nobody has done anything about the drainage problem, and it is still sitting there creating another two businesses, brand spanking new, just right real close to the same problem that we can't seem to get corrected.

President Jerrel: Let...I want you to read this. This was what started part of this. We were asking about the right-of-way looking at your maps.

Commissioner Mourdock: While he is reading that, Bill, since you are away from the microphone you can just answer yes or no. At one point during a similar discussion to this the question came up regarding the capacity of the drainage way that runs through Oakridge Subdivision and how it handles the water that is in front of Mr. Bell's house and down around Ward Road. It's my recollection that you said the problem there was not one of the actual throughput capacity of the creek further downstream through Oakridge, it was just basically the water getting into that drainage way before it starts through Oakridge. Is that right?

Bill Jeffers: That's right.

Commissioner Mourdock: Okay, thanks. The answer off mike was yes.

Robert Bell: The point that we are looking at this isn't a total fix for Anthony Drive's problem.

Commissioner Mourdock: What is not a total fix?

Robert Bell: What we're looking at...to take and do what we are wanting to do is divert the water down the other side.

Commissioner Mourdock: Down the east side of Ward Road?

Robert Bell: Down the east side to Ward Road...I mean, St. George Road. Okay? Not a total fix. We're at the bottom of a hill, so when you are silly enough to buy at the bottom of a hill you've got to accept some problems. We're always going to have a flow of water. We're always going to have a ditch behind our house and the one in between us to try to control what comes off of the ground, but, and I am sorry that Mr. Buck left because I tried to get him an invite tonight to come down for us, when his detention pond was built we were down here talking this same thing. We were sitting here trying to understand what we were going to do. Two and a half years ago or whatever it was. Meanwhile, we get a new project on top of the hill. I even went to the rest of the meetings with those people because I was not against Mr. Buck's project. A detention pond was then implemented for him to be able to put three or four houses, whichever it ended up, on top of that hill. Again, we're still coming to meetings trying to get our problems straightened out. We can't ditch. We cannot, please understand me. I was told we cannot ditch on the east side of Ward Road. As soon as they finished that pond and there wasn't any place for that water to go to they dug up Mr. Halcomb's yard with an open ditch so it had a place to run on my property. Now I want to know where we are going?

Commissioner Mourdock: The letter that Mr. Stoll sent you, Mr. Bell--

Robert Bell: Yes, sir.

Commissioner Mourdock: --he has listed four different suggestions.

Robert Bell: Yes, sir.

Commissioner Mourdock: Are there any of those that you and your neighbors, Mr. Halcomb, Mr. Rucker or others--

Robert Bell: Basically in reading it, if I read it correctly, basically what we are asking first of all is that the neighbors in the neighborhood will not accept the open ditches in the front when the people up on Ward Road do not have to do the same as we did. Secondly--

Commissioner Mourdock: Wait a minute. That was number two, I think.

Robert Bell: Secondly, I don't think that anyone, and I haven't even discussed this because it infuriated me a little bit, was the fact that we were going to pay with it our tax money on it. The back one is a sensible question about running it through the back, but there are so many restrictions...I mean, so many obstacles back there that is not a feasible situation. First of all, at the corner of my property it goes uphill greatly, okay? To run a tile along that property line and get it down to where Mr. Rucker's tile is there would be a sewer line that is major because the people off of the Knob Hill sewers come into sewer lines down there, those are sanitary sewers that I am speaking

about, and crosses over into the bottom part of Anthony Drive for their sanitary sewers. There is just a bunch of obstructions there to get down there to where we would really hook into what he's got.

Commissioner Mourdock: We deal with obstructions all the time. I mean, that's life. Aside from the obstructions that are there that can be resolved with a little bit of decent engineering, is that alternative still something that is acceptable? Let me rephrase it. You said that it would be going uphill basically. That's a matter of digging the pipe deeper.

Robert Bell: I understand.

Commissioner Mourdock: I mean, that's not really an obstruction. It can be done. Aside from those things, is number four something that otherwise begins to work?

Robert Bell: The person that would be most apt to answer that for you is Mr. Tabor because he would own a large portion of that property.

Commissioner Mourdock: Have you discussed that with him?

Robert Bell: No, I have not. My question to you folks is explain to me other than what we read here in this brief that you have given me about the actual right-of-way on Ward Road to dig ditches in front of those other two houses when there were ditches there that existed originally and that everybody else is marked from one end of that thing to the other with right-of-ways?

President Jerrel: On our originals...John, he is talking about--

Robert Bell: I don't understand why those two houses are exempt from having a right-of-way in front of them.

John Stoll: These are sanitary sewer plans. These aren't recorded subdivision plats.

Robert Bell: I've got a little bit of everything.

John Stoll: This is a recorded subdivision that indicates the 25 foot right-of-way on the east side of Ward Road that we were talking about up to those two lots that were in question. Once you get north of those two lots and north of Anthony Drive, then it picks up 40 feet again on the east side, but these...they're not accurate in my opinion because they are not a recorded subdivision plat. They are just sanitary sewer plans and given the fact that the people designing the sanitary sewers don't necessarily go out and research all the right-of-ways if they're not--

Commissioner Mourdock: I'm sorry, John. I didn't hear the first part of that. Given what?

John Stoll: Given the fact that the people who draw up the sanitary sewer plans didn't necessarily go out to research right-of-way, they'll just indicate something.

Commissioner Mourdock: They just draw it where they need it?

John Stoll: Right, they show a 40 foot right-of-way on each side of Ward Road all the way down, so this is not the recorded plat. This didn't dedicate the right-of-way, so that is why we came up with a different right-of-way then Mr. Bell has come up with. That's why we had the two missing lots. Two missing right-of-ways on two lots.

Commissioner Tuley: John, if I understand you still have with the exception...did the two that were unidentified get identified this week?

John Stoll: No, we didn't. All we could find--

Commissioner Tuley: I know you've got 40 foot above it and 25 foot below it.

John Stoll: Correct, and then 30 feet all along the west side.

President Jerrel: They've tried to find the deeds in the Recorder's Office.

John Stoll: Right.

Commissioner Tuley: It would stand to reason that there is some right-of-way through there would it not?

John Stoll: Right, unless it was never specifically dedicated.

Bill Jeffers: What it will most likely say since those two parcels are not a part of the subdivision, they are independent individual parcels, their deed will most likely say, subject to right-of-way of record, and then you would have to go back to the old right-of-way book from the 1800's and see what Ward Road was then because if they have not updated their right-of-way such as Mullen granting 30 feet, etc., they are still subject to the right-of-way of record and the only record would be the old, ancient right-of-way book. It could be 16 ½ feet. It could be 20 feet, it could be 25. You would have to find that.

Commissioner Mourdock: You're speaking total right-of-way, not just off the center line?

John Stoll: No, that would be just off that east side.

Bill Jeffers: Generally it would be off the center line.

Commissioner Mourdock: Off the center line, okay.

Robert Bell: May I ask a question, then, to John and to Mr. Jeffers? If this is the case of those two property lines, then why does the electrical utility run the same distance from the center of the street inboard to the property as do they do all the way up and down that street? The telephone poles sit approximately as in front of the McDonald's house approximately...38 feet? We measured it. Thirty-eight feet from the center of the road to the inside of his front yard.

Bill Jeffers: The answer to that would be there--

John Stoll: That right-of-way exists.

Bill Jeffers: --that on Old State Road there is no right-of-way. Period. That was an old--

Robert Bell: Old State?

Bill Jeffers: Old State Road there is no right-of-way except where there are subdivisions because there is no record of the right-of-way for that road. That's the road that Abraham Lincoln took from Evansville to Princeton. It was an old stagecoach road. Everywhere that there is a subdivision, there is right-of-way and the telephone poles on Old State Road go in a straight line also. They just take that liberty.

President Jerrel: Yes, do you want to come up?

Unidentified: I know Mr. McDonald is in the subdivision because he was told that he couldn't build an outbuilding because that was a covenant in the subdivision.

President Jerrel: Would you want to come up so we can keep all this on the record.

Charlene Timmons: Can I change the tape while she is doing that?

President Jerrel: Yeah. She is going to change the tape.

**Tape change**

President Jerrel: Could you give us your name?

Sherry Bell: Sherry Bell. My point was that he is in a subdivision because he told us that he was not allowed to build an outbuilding because that was a covenant in his subdivision, so, obviously, he is in a subdivision. If he is in a subdivision you just now stated that he does have a right-of-way. Is that correct?

John Stoll: We found 40 feet of right-of-way on that property. It's the two on the south side of Anthony.

President Jerrel: It isn't his?

John Stoll: Right.

Robert Bell: (Inaudible) which two are you talking about?

John Stoll: There is a 40 foot right-of-way on these up here, but we couldn't find anything on those.

Robert Bell: This is already piped.

Sherry Bell: This is piped and this is piped and they piped all down here. I mean, they dug all down here and all down here and they skipped here which would of brought the water on down this street instead of behind our house and they skipped these two

houses, so these are the two that we are talking about.

Robert Bell: Let me have this a minute. If I might interrupt, I was assuming that we were talking about McDonald.

President Jerrel: No.

Robert Bell: Okay, the homes that you are talking about down here that he just pointed out which is on the south side of Anthony Drive that sits here, this particular home right here just two years ago I went down and didn't know the gentleman. I introduced myself and told him he ought to not put in his new aggregate driveway because we were working on trying to get some drainage problems straightened out and I was afraid they were going to ditch it and he said, oh, they're going to take all the dirt from here and he said I went downtown and he got the big concrete pipe that was recommended for where he was at and there is new concrete pipes in the beginning of his property until it runs into the ditch on the other end.

Commissioner Mourdock: John, let me ask you what may be the stupid question of the day. If the bulk of this water that is causing the problem down below is coming from the west side of Ward Road...do we agree on that? I mean is that...

John Stoll: I wouldn't say the bulk of it.

Commissioner Mourdock: Okay, well--

John Stoll: That's a natural valley that runs right into all these houses, so there is a good portion of it that comes that way.

Commissioner Mourdock: Okay. If there was a curb on the east side of Ward Road, just, you know, a four inch curb, would that serve to get water down to Oak Hill? Realizing that once you get down there you are still going to have to put in a pipe or something underneath Ward Road--

President Jerrel: St. George Road.

Commissioner Mourdock: Yeah, but you're going to have to get it across Ward Road before you get it to St. George. Or it would seem to me the way that sits. Maybe that is not right.

John Stoll: I guess you could if you would pipe it underneath Anthony Drive through there. You would have to put some inlets in and catch that water and then force it to go down--

Commissioner Mourdock: Wait a minute. Why would you have to? Could you not put in like a speed bump across Ward Road? I mean, am I being totally goofy here? Do you understand what I am saying?

John Stoll: Yeah, just to divert the flow?

Commissioner Mourdock: Uh-huh.

John Stoll: I suppose you could.

President Jerrel: What causes it to kick out so the way they

showed me from up at the top of Halcomb's? You know, that house over across on the west side it tends to just shoot across that area.

Commissioner Tuley: Undersized pipes.

John Stoll: Ditch piping.

President Jerrel: Okay.

John Stoll: It's always...I shouldn't say always--

Robert Bell: Do what?

Commissioner Tuley: Undersized pipe under there.

John Stoll: --but it will be graded straight from the edge of the pavement up to the house, so it is going to shoot across the road rather than having any kind of swale across the top of the pipe. That's for the most part what I've seen up there.

Robert Bell: The biggest...if I might add to what he is saying. The biggest problem is where I started my conversation because somewhere in this mess of mine is the homes on the west side of Ward Road, between there and Ohara Drive, it was designed with a 12 foot easement for water transfer only.

President Jerrel: Behind the houses?

Robert Bell: Behind the houses.

Commissioner Tuley: On the west of Ward?

Robert Bell: We have a young lady, Ms. Tracy, in the crowd tonight that I just met. She lives on Ward Road. This is behind her home, okay? Those units were left open for one of these easement rights that everybody has been talking about to collect that water. She now not only has a water problem that I wasn't aware of, but has a problem with it running down through there so fast and going through their yard so fast that it is running in the sanitary sewers running it inside her house flushing it inside her commodes in her bathrooms and put how many inches in your basement?

Joyce Tracy: I had 19 inches of sewer water which absolutely destroyed all of our furniture at 5:31 when I woke up in the morning.

Robert Bell: That particular easement back there from where that water is supposed to go over the years has been allowed to be eliminated.

Commissioner Mourdock: John, I don't recall any discussion about this easement behind the houses on Ward Road. Are you aware of that?

John Stoll: I'm not familiar with that right off the top of my head either.

Joyce Tracy: Really and truthfully, that was sewer water.

Robert Bell: Where is that one I had? I just had it out outside.

President Jerrel: Well, that seems like something we need to know. Is there an easement back there for water? How would we know that?

Bill Jeffers: Well, there is an easement where Mr. Bell is describing. I don't know how wide it is. I know it is there because during the hearings that we had on the obstruction of that natural water flow of Mr. Barrett...uh...?

Unidentified: Bassett.

Bill Jeffers: Bassett. That particular easement back there has been obstructed by landscaping, yard barns, sewer manholes, shrubbery, fences.

Robert Bell: Surface water easement only. Every one of those plots--

Bill Jeffers: It's obvious that at one time it was designed to intercept storm water flow half way down the hill and take it toward...to St. George.

President Jerrel: So it's like...I can't see the lady that was showing that to us. It's been...in other words, people have used it so it no longer functions?

Joyce Tracy: Right.

President Jerrel: I mean, they've let everything grow up in there?

Sherry Bell: They say you are supposed to be protected from that from what we've been listening to and as they present these other plans to you, but you're not protected and now who has to pay because no one every stopped these people?

Bob Halcomb: Bob Halcomb, excuse me, I lost my voice last week in Chicago, 5805 Ward. The thing that is so ironic about this is my sewer is tied over to this lady here, so since you've been out in the last couple of weeks I've experienced a total flood. Four bathrooms came up and flooded by basement and then they filled the heating duct work full of sewage and then they collapsed. They collapsed in my basement again, so not only have I had to dig out my floor and replace that in the last couple of years, but now I've got this sewage problem plus I feel like I am a conduit to the water that is leading these people's problems. I'm not a civil engineer, but I am kind of like Mr. Mourdock here that I can see some simple solutions and I just can't understand why we can't get these going. It's getting more and more out of hand. At the same time you allowed Mr. Buck to build up here I said fine, economic development is where we are all at, but who is the traffic cop, okay? Who is the cop that says hey, you jaywalked, quit it. What's happened is just what he just mentioned, okay, this is ironic that all

this is hitting tonight. He is saying well, a yard barn here. A yard barn here and landscaping here and all of a sudden who is the police, okay?

Commissioner Mourdock: Okay, wait a minute. Let me answer that question if I may. The question that comes up tonight, and this is new information to me. At least I have never heard about this easement out there between Ohara and Ward--

Robert Bell: It's getting more exciting.

Commissioner Mourdock: That isn't the word I would of used, but you're right the plot thickens, shall we say. If there is an easement out there who is it granted to? Because that may dictate who the cop is, to use your words.

Bill Jeffers: Okay, there's a...actually, it's a 12 foot public utility and surface water easement, so it is 12 foot wide, six foot either side of the property line, and it is for use for public utilities and surface water. Not surface water only. No where on here does it say surface water only. The word "and" is right there.

President Jerrel: Okay, what does that mean?

Bill Jeffers: That means any public utility can go in there along with the surface water swale that should have been maintained by the private property owners.

Commissioner Mourdock: Public utility. Define those.

Bill Jeffers: Oops, excuse me. It would be telephone, cable, SIGECO, sewer.

Commissioner Mourdock: Is there any way that can be stretched to say Vanderburgh County?

Bill Jeffers: This is why we have the drainage ordinance of 1994 is because up until that time we had no enforcement power to go in and remove obstructions in what should have been maintained as a swale.

Commissioner Mourdock: So are you saying that in fact now we do have through the drainage ordinance?

Bill Jeffers: On all the ones we are recommending now those plats carry the message no fences, yard...I could pull a plat.

Commissioner Tuley: That's not retroactive is what you're saying? That's what Joe is saying.

Bill Jeffers: I mean, I could read it to you, but it lists several things. Fences, plantings, gardens, blah, blah, blah, blah. Nothing can be put in those easements unless a plan is brought to the Drainage Board and approved by you.

Commissioner Mourdock: That's today going forward?

Bill Jeffers: That was 1995 forward...or 1994 forward.

Commissioner Mourdock: Okay.

Bill Jeffers: November.

Commissioner Mourdock: What was the date of the plat we just saw? Roughly?

Bill Jeffers: Oh, '60's or '70's. It's not on here, but it's drawn by Sam Biggerstaff. I can tell that right of the top. Just from looking at it I would say probably...and it was done for who...? Judge Lensing, I would say in the mid '60's.

Commissioner Mourdock: Is there any way under the 1996 state drainage law that the county can make a claim to have jurisdiction to--

Bill Jeffers: If you can prove that at one time there was a drain there it could be classified as a mutual drain. One that is created on one or more parcels of property owned by two or more people--

Commissioner Mourdock: But under the...and you know that better than I do, Bill, the wording of that law is rather ambiguous where it said something about man-made or natural drainage ways or something.

Bill Jeffers: You can still see remnants of what was created as a surface water drain running down along those back lines. You can see all the obstructions that have been placed there plus some of the utilities. There is a sewer manhole placed behind Mr. Tracy's house.

Joyce Tracy: It's behind Bassett's.

Bill Jeffers: That's the way they constructed it. It allowed the water to turn out of that swale and right down through the backyard.

Commissioner Mourdock: I see our county attorney getting nervous. I probably should be here, too, but let me go back. If, in fact, that plat describes a created drainage way, is there any way under the 1996 state law that we would have or someone would have jurisdiction to go in and either clean that out or cause people to move their mini barns and do the types of corrections that you made the comment about a moment ago?

Bill Jeffers: Yes. First a property owner or property owners would have to petition--

Commissioner Mourdock: Affected property owners? The normal 1996--

Bill Jeffers: First they would have to request each person up the line we want you to move this, this, this, this. They would have to identify the obstructions and ask the individual property owners on whose property the obstructions exist to remove them. If they don't they could come petition this Board.

Commissioner Mourdock: Just the normal 1996 drainage procedure?

Bill Jeffers: Right, right, to remove obstructions--

Commissioner Mourdock: But that process has to be initiated by the affected land owner or land owners?

President Jerrel: Well, there is one lady back here that is affected.

Commissioner Mourdock: It sounds like everyone is affected.

President Jerrel: Everybody else is too, but she lives there.

Joyce Tracy: Well, I'll tell you truthfully, I do have a fence.

Commissioner Mourdock: You need to state your name and address.

Joyce Tracy: Oh, I'm sorry. Joyce Tracy, 5806 Ward Road. We do have a chain-link fence around the back.

Commissioner Mourdock: That goes across that easement?

Joyce Tracy: Yes.

Commissioner Mourdock: Would you tear it out?

Joyce Tracy: Yes, I would. I would be willing to tear it out, but we have a pole barn back there to put things in and it's more down, but we do have a somewhat ditch back in back of our house, but two doors north of us there is absolutely no ditch at all. I mean, it just comes rolling across our yard. What happened here to me has nothing to do with surface water. It is strictly...I want to just show you this--

Commissioner Mourdock: Okay, if it doesn't...if it isn't the result of surface water what are you saying it is a result of?

Joyce Tracy: I'm saying it is strictly sewage water.

Commissioner Mourdock: Okay, which is not us you understand?

Joyce Tracy: I understand this.

Bill Jeffers: Now, wait a minute. It may appear to be sewage, sanitary sewage, but the sewer manhole lids back there in that easement are not bolted down or gasketed and so the surface water may be infiltrating the manholes--

Joyce Tracy: It may be.

Bill Jeffers: --and causing it to back up.

Joyce Tracy: I don't know, but I'll tell you this that when I woke up at 5:31 at 5:00 and seen this I near about had a heart attack, I'll tell you. It is...well, we've talked to different ones. I can't remember the name now, but I've got it all written down at home, and they're trying to say that well...well, let me...no, I'm going to start back, excuse me. When I called the Sewer Department they came out. They worked on the different manholes. My manhole, or it is actually in

Bassett's, but ours is hooked into that, goes south and I am the one that got the biggest blunt of it, 19 inches. The ones south, I'm not sure, they got some damage, but I'm not sure what. They worked on that for about three or four hours. The main manhole was stopped up. I had Roto Rooter or Jiffy-Rooter out there and he was using a pump over my walkout or walkup area to keep the water...he was pumping sewer water to keep more from coming in since I had so much there. As soon as they cleared that manhole the water rushed out of my home.

President Jerrel: So it was more an obstruction?

Joyce Tracy: It was evidentially obstruction in the manhole.

President Jerrel: How many, just visualizing the back of that area, where did Bill Jeffers disappear to? I was going to ask him when you're talking about a ditch, a drainage area, I think of something that's got enough depth to it that it will carry a sufficient amount of water. Is that whole area pretty well built up with different things or not?

Joyce Tracy: Now I look in back of our house, now we've got somewhat of a ditch. It's not great big, don't misunderstand me. It's not real deep, but I don't notice the water coming over there over that area, but like I say, going north the water just absolutely rolls down because there is nothing, there is nothing.

President Jerrel: If there were something it might cause it to go, but how much would have to be cleared out?

Joyce Tracy: I cannot answer that. I'm not a...I don't know.

President Jerrel: You don't know how many homes have things?

Joyce Tracy: Like I say, I will admit that I do have a chain-link fence around that and it is over the right-of-way, but we've always been very nice if somebody wants in we'll remove it. We remove the end and they can come in.

President Jerrel: Yeah.

Joyce Tracy: I do have a pole barn, but the pole barn sits down somewhat, but it may interfere a little bit, but it does not seem like it interferes with the flow of the water this way. It's coming across this way. Like I say, I have not been too concerned about that because we've been able to get it away, but what I am really concerned about was all this sewer water.

Commissioner Mourdock: Sure, and hearing you say that once the sewer was unplugged your problem went away--

Joyce Tracy: That proved that--

Commissioner Mourdock: --that it may be somewhat segregated even though as Mr. Bell or Mr. Stoll or somebody said before when I asked about the majority of the water if it were kept on the west side of Ward Road would the problem go away? The answer was well, maybe not totally because that is only part of

the water. Again, under the 1996 drainage law that Bill Jeffers and I were speaking of a moment ago there is a mechanism, I think, to begin to pursue how that drainage way can be cleared based on that map you showed us. However, the way the 1996 drainage law works the people who have to start that procedure by contacting the people who have plugged the drainage way are those who are affected which means you guys not us. I mean, that's the way the law is set up. It's so one neighbor can, hopefully, resolve the problem with his neighbor and if it doesn't work then he comes to us and that is how the process proceeds.

Robert Bell: May I speak?

Commissioner Mourdock: Sure.

Robert Bell: We've asked and have yet to receive an answer, basically, I think, of why we can't take this water down the east side of Ward Road. We keep going around this for some reason and it's hard for me to understand whenever I own a piece of personal property and these people get my water. That water is coming onto and through my property--

Commissioner Mourdock: I was just about to begin to address that side of it.

Robert Bell: --which is private property. It has been deflected that away and since I have been taking a real education and I am not a college taught individual, but in the last year and a half I have really got smart, I think, for as dumb as I was. The houses up there on Ward Road that don't have the water running in front of their houses or the gentleman that built our development and the lot next to him was a lot that he wanted to sell, when you stand in front of my house you can see the swale where the water used to come down past the McDonald household through the center of that lot. The neighbors have told me he built that wall and diverted that water so he could dry that corner lot out so he could sell it as a good piece of property.

Commissioner Mourdock: Exactly, exactly, exactly the same principal applies, Mr. Bell. The 1996 drainage law says when someone affects a natural drainage way and it affects someone else, which is what you just defined, there is a mechanism by which you can begin to pursue that.

Robert Bell: Why, why, why can't he have the same drainage in his front yard that Bob Halcomb has got, that the people on the west side of Ward Road from one end to the other was dug up a year ago with no questions asked? Come out there wam, bam and slammed you and didn't even do it right and he can't have a drain in front of his house like all the rest of us? I have a 13 inch tile in front of my house to carry water.

Commissioner Mourdock: Okay, let me try to answer that because I want to be sure I understand the answer myself. It is my understanding the reason is the right-of-way width? Is that right, John?

Robert Bell: We have 40 foot from the top of the hill down to the other end at 30 foot.

Commissioner Mourdock: Let me be sure I understand that, Bob, because that is a key question.

Robert Bell: Alright, okay.

Commissioner Mourdock: What I have heard is that right-of-way width that you were looking at before is not a recorded width and we would go back to the points that Bill was making about going back to whatever the right-of-way were that were of record, but there is nothing of record.

President Jerrel: No, McDonald has...there is 40 feet there.

Commissioner Tuley: Yeah, there is not a problem. If you get south of Anthony--

John Stoll: Right, the only two that are a problem are the two lots south of Anthony along the east side of the road.

Commissioner Mourdock: Okay, when you are going south...you got to go south.

John Stoll: Right, and you will hit that problem.

Commissioner Mourdock: Whether it's the first one, the second one or the third at some point you get to the problem I just defined.

John Stoll: Correct.

Commissioner Mourdock: Is that right? Okay.

Robert Bell: The first house is just like I explained. Brand spanking new. By you people, somebody downtown told him because I went over to stop him and his man said I am digging dirt out and had a ditch. He called down and said what size tile do I use? He got a concrete tile and put on one of his property under his new beautiful aggregate driveway and out the other end. The second house that you cannot find an easement for has already got a ditch that deep and that wide.

President Jerrel: So it's the McDonald.

Robert Bell: So what's the problem? You don't even have to mess with them two people.

President Jerrel: It's the McDonald--

John Stoll: You're still changing the watershed from where the water has already always gone. Everything east went east; what was west went west. That was the way the contour maps show. Whether or not there is anything that any of these people have that shows anything different I don't know. As far as putting a curb in there the one thing that I wanted to bring up was back when I first started working for the county there was a project on Schmitt Lane, off St. Wendel Road, where they put in curbs

and whoever wrote the contract had a pretty ill-conceived idea because they didn't address where all those curbs were going to chase the water to and they chased problem to problem to problem. You probably remember some of that, Pat.

Commissioner Tuley: I remember that.

John Stoll: It was a headache and that was the one thing if a curb was going to be put out there we definitely need to make sure that were not going to chase the problem from Ward and Anthony down to Ward and St. George to Ohara and on down the line. The ditch that Whirlpool dug is on Whirlpool's property that is why they did that. I don't know that we would have the legal right to start throwing additional water into that. If we start forcing more water than what was planned, then that's a different issue.

Commissioner Mourdock: So it is your feeling engineering-wise that the water ought to as closely as possible follow the original contour which is to say a lot of that water ought to be running east as opposed to going further south to connect into St. George?

Robert Bell: It did not normally go that way.

John Stoll: Correct.

Commissioner Mourdock: That's what you are saying?

John Stoll: Yes.

Bob Halcomb: But here is one statement that kind of wraps all this up. One year ago we were in with you and the retainage pond that evidently it was approved by everyone was supposed to hesitate the water and let it out at a certain controlled rate.

President Jerrel: Is that...where is that?

Bob Halcomb: Everyone here will tell you these problems have escalated at a rapid rate over this last year. Now, it's kind of ironic tonight that this contractor when he knows we are coming in here is pushing this gentleman to approve this thing before we can gripe about it. Okay? Something is not right here. We're not smart enough to tell you what it is, but we're telling you there is a problem. It's escalated. We're trying to get something done.

Commissioner Mourdock: So are we and that is why we sent out a letter with four points--

Bob Halcomb: No one here is upset--

Commissioner Mourdock: --and we're hearing you tell us that none of these four points is acceptable.

Bob Halcomb: Yeah, well, I think they might be, but if you come out ...we can't understand. I'm starting to agree with Mr. Bell. I think there is a depth here with McDonald property being raised. One property is standing in the way of progress

to probably divert 60% of this water problem that the Bells have. One property.

Commissioner Mourdock: Okay, and if that, you know, it seems with that statement, Mr. Halcomb, if there is that one property that is what item four addresses.

Bob Halcomb: Right.

Ralph Tabor: My name is Ralph Tabor. I've been living out there for 23 years and I ain't never had as much water in my yard as I got now. It's about time that somebody does something about it.

Commissioner Mourdock: That's what we're trying to do, Mr. Tabor.

Ralph Tabor: Yeah, you've been fooling around two years on it. How many more years are you going to fool around?

Robert Bell: We don't need to argue. We need to come up with some way to do this.

Ralph Tabor: It's about time they do something.

Robert Bell: Some workable--

Ralph Tabor: I put \$2,200 in my basement on the account of water. I'm tired of it. Then the guy tells me to dig the clean out up. Take a shovel and dig it out. If it wouldn't be for that clean out I would have more water in my basement. Action is what we need, not no talk.

President Jerrel: Well, Mr...let me just ask you a question.

Ralph Tabor: Okay, you ask it.

President Jerrel: You want action which means--

Ralph Tabor: It's been going on for two years.

President Jerrel: I know, I know, I know, I know! You would like for us to dig up all of Ward Road on the east side and not touch Anthony Drive, go down and dump the--

Ralph Tabor: You don't have to dig the whole--

President Jerrel: I know, but you're wanting...we are making some options available to you that we are trying to figure--

Ralph Tabor: We don't want that.

President Jerrel: I'm not sure that any of these are the solutions. Now am I making myself clear? We have been given I know four or five different answers--

Ralph Tabor: The only way you are going to stop that problem is run that water down Ward Road.

President Jerrel: I know there are at least four that have been given tonight. One is to clean out behind Ward Road homes on the west side of the street. That's one that has been given tonight.

Commissioner Mourdock: That's the fifth one.

President Jerrel: The other one is, you know, to open up the east side of Ward Road. The other was to open up behind your property. I don't know what Mr. Jeffers, Mr. Stoll, I don't know what is the right thing to do.

Ralph Tabor: Somebody ought to know!

Unidentified: Mr. Tabor. Mr. Tabor, just calm down.

President Jerrel: What is the correct best way to solve this problem?

Michael Johnson: Excuse me. My name is Michael Johnson. I live at 2631 Anthony Drive. I also own the property at 5640 Caesars Court, which adjoins my property, both within this subdivision. Mr. Tabor's frustration I hope isn't being counterproductive, but he has a problem.

President Jerrel: I understand.

Michael Johnson: Just a couple of quick points. You talk about the natural flow of water. What we are dealing with here is two properties that are deflecting the water. Primarily one. I don't know the addresses. The second house north of Anthony Drive on the east side of Ward Road. We have a concrete wall that is deflecting the water. Concrete walls do not happen in nature, so we are not dealing with the natural flow of water. The obvious solution to everybody living on Anthony Drive is to simply run that water past those two houses to a ditch, a pipe or whatever is appropriate so that it goes on down to Ward Road and then is carried...I'm sorry, to St. George Road and then it is carried either down toward Oak Hill or toward 41. There is obviously going to be water going down Anthony Drive and we expect that. I've lived there since 1988 and the amount of water has increased dramatically over the last particularly two years. Mr. Buck was mentioned. I went up a couple of weeks ago and looked at the detention/retention pond, whatever you want to call it, and whenever you have an inlet here and an outlet here and an area that would maybe contain 50 gallons of water this is not effective. I'm not an engineer. I'm not a drainage expert by any means. I don't know what needs to be done, but that needs to be addressed. The flow of water down Ward Road needs to be directed towards St. George and what goes naturally toward Anthony Drive we'll live with. That's just part of our, you know, what we accepted when we bought the property and that is not what we have today. Thank you for your time.

Robert Bell: To continue on from where he is at, Mr. Rucker is with us, which is in the development below us. In giving him the benefit of the doubt and not to drag this thing on, in doing this I think Mr. Rucker is in agreement that the relief would be a welcome situation. In fact, he is even looking into some

personal things down there to help himself such as we are all. We're not looking for a quick fix. We're looking for fair treatment. The idea of where that water runs and how it runs now as far as down Anthony Drive, if it goes back to five years ago there obviously wasn't to whole bunch of problems because you didn't have 20 people up here trying to argue this thing out.

Bill Jeffers: You didn't have 3 and 3/4 inches of rainfall in 54 minutes either.

Robert Bell: But those are the things, Mr. Jeffers, that we are trying to help ourselves with. Just like I said when we started, in your defense you've told me what you've said. He says the water needs to stay on the west side of Ward Road. I'm saying if the west side of Ward Road is where he wants to keep it, fine. Open up the east side and let's take what is left and get it off of these people. That's my point. He's saying the west side...if we do the ditch or swale behind the homes in that easement area to relieve the problem, fine, let's go to the east side of the street and repair that so we all have a dry situation down the hill a little farther. We were looking at these proposals that were made and I thought that Mr. Stoll done a very good job in making these proposals. First of all, most of us have spent our last dimes out there just to be able to keep our houses. I mean that is dead serious right from the bottom of my heart. I mean that. We have lost tons of money. I lost all my insurance on my home.

President Jerrel: Well, the Bells have an even more serious problem in that property was flooding when they bought it and they missed the time when they could have recouped from the previous owners, so it's a long time problem.

Robert Bell: At this particular point what we are looking at is something to give us some help. Is it a fix? No, but we're not looking at spending \$80,000 or \$100,000 worth of taxpayer's money either by trying to open up both sides of Ward Road and taking it to St. George. The corner at St. George and Ward Road in the wintertime is going to get a school bus full of kids killed because that thing sheets up in ice so bad because there is no tile underneath there. There's going to be a humongous lawsuit over that. That's not where I am at, but it is something that needs to be fixed anyway. Our proposal, half Mr. Jeffers half mine, is to do both sides of Ward Road and let's fix it down there and see what we can do about helping ourselves. That's not like you're going to spend a whole ton of money. That's not like it has to go to a Barrett Law. That's not like taxes shouldn't take care of it. It's a situation of cutting the street and putting a piece of tile under it and then draining those other two pieces of property.

President Jerrel: Where is Mr. McDonald in all of this?

Robert Bell: Where is he? He is at home. He doesn't get bothered by it.

Bob Halcomb: He is in support of the wall.

President Jerrel: He wants the wall to stay?

Commissioner Tuley: He has the wall!

President Jerrel: Yeah, he has the wall.

Sherry Bell: He put the wall in.

Robert Bell: So he wants it to stay.

President Jerrel: Just carry this a little further. What happens if there is an effort made to ditch this east side and what happens...who sues Mr. McDonald?

Robert Bell: Mr. McDonald has made a statement to other people in the neighborhood, he and I don't get along real well, but to other people in the neighborhood that he has no problem with going across the front of his property as long as it don't cost him any money. That's his exact words to other neighbors. So where we come up with this big problem is that he doesn't want it done, I don't know that it exists. Okay? I think it's the fact that he just isn't going to spend any of his personal money to get there. He talks about his driveway and having a piece of paper signed by somebody downtown stating that you would never cut his driveway in two. When I moved out there we ended up having sewers, sanitary sewers, we were on a cistern, and we had problems right away and I had to pay to get tapped in to the city or county sewers. To do that, I was the new kid on the block and I know you've probably heard this before, but I am going to say it again, Anthony Drive was a nice paved street. Me and the wife talked about it and we didn't want it cut in front of our house. The actual sewer was on the other side, so we drove the pipe under the street. So if they can do that and I had to pay for it, somebody ought to be able to drive a pipe under his poor little driveway and keep him happy without cutting it if that's his problem. If he is the only problem you've got 30 other neighbors being hurt over a driveway.

Sherry Bell: Can I ask a question?

President Jerrel: Uh-huh.

Sherry Bell: When they came out there a year ago and dug the ditches in front of Halcomb and all the way down Ward Road, when they stopped at McDonalds and did not go any further what was the intention of that water? I mean, what was the plan when they went out there and dug those ditches what was the plan? Because when they stopped it at McDonald's it turned and the water we were getting and flooding before now we're getting three and four times as much because they dug a big ditch, directed it down there, turned it and now we've got tons more water. What was the intention when they stopped there? I mean, was that it? So we got more water. I mean, I don't understand.

President Jerrel: John, do you recall? I mean, I wasn't here.

Robert Bell: They had to have a place to put Mr. Buck's detention pond.

Bill Jeffers: That's not it at all.

Sherry Bell: What was the intention?

Unidentified: That's a lot of it.

Bill Jeffers: No, it has nothing to do with it.

Robert Bell: Okay, where were you going to drain it, Bill?

Sherry Bell: Now wait a minute. Just let him answer this question--

Bill Jeffers: Excuse me, please.

Sherry Bell: --as to what the intentions were.

Bill Jeffers: It's been the Vanderburgh County Surveyor's recommendation since day one to keep all the water generated on the west side of Ward Road over on the west side of Ward Road where it traditionally and historically has been. Along with the displays that Mr. Bell showed you that showed that easement behind the homes on the west side of Ward Road there was also another public utility and surface water easement coming down the hill directly into Ward Road at about 5800 somewhere or 6000 Ward Road. Do you have that? Earlier Ms. Jerrel asked where was this place that the water shot up out the ground and went across Ward Road and it is about 58 something or other Ward Road. It is right there where that easement is. There is a pipe coming down the hill out of Melody Hills and someone has made some mickey mouse connection into the pipes along the west side of Ward Road and created a geyser that throws a humongous amount of water across Ward Road and it enters the east side of Ward Road into the ditch right at the northeast...the northwest corner of Mr. Halcomb's property. Mr. Halcomb will tell you in all honesty that the water...I hope he would tell you in all honesty, because I'll tell you I was out there and saw it when it happened and Mr. Rucker was in my car that day on June 9, 1996 and we saw it. The water crossed right there by that fire hydrant and upstream of that point the ditch along the east side of Ward Road was not half full of water coming out of Mr. Buck's detention basin and right at that point that is where the water left the ditch and went around Mr. Halcomb's backyard and sheet flowed and spread out and went real nice and slow until it came to the back of the Bell's property and ran between the Bells and Mr. Savage. That volume of water that left the ditch and that ditch was overburdened by the water coming down the hill out of Melody Hill and cross then at 58 something or other, I could verify it, but not by memory, and that is where the water left the ditch. Well, the County Highway Department tried to coordinate everything as best they could, but they jumped the gun by digging the ditch out in front of Mr. Halcomb's yard, so now when the ditch is...the ditch is never overloaded. It all comes down in front of his house, hits that wall and turns and goes between Mr. Bell and Mr. Savage at a much higher volume at a much more, you know, more...right there, bam, okay? Now there used to be an open ditch between Mr. Halcomb...between Mr. Savage and Mr. Bell's property. There used to be an open ditch there. I've been told, I believe it was by Mr. Savage, that the

reason for choosing to pipe that ditch was because during periods of drier weather there was always sewage in that ditch coming out of the hills up there where they didn't have any sanitary sewers at the time, so they piped the ditch and they ran it out in front. There's another fellow that got up and told you he's been living down there at Caesars Court and Anthony Drive since '88. I would like to ask at that time were there open ditches on both sides of Anthony Drive?

Michael Johnson: No.

Bill Jeffers: There were not?

Ralph Tabor: No there wasn't. There was just one ditch.

Bill Jeffers: Everybody...originally Anthony Drive was built with open side ditches on both sides from top to bottom and they have put in a conglomeration of pipes all down through there and what is good for one is good for all. If we are going to start ripping out pipes and stuff, let's just do the whole thing right.

Sherry Bell: Can I ask a question though? This pipe was put in the side of our yard because they were directing water between two houses that were private property.

Bill Jeffers: Who sized that pipe?

Sherry Bell: By putting that pipe in there--

Robert Bell: It doesn't matter, Bill, it's private property.

Sherry Bell: It was done before we were done, but they put it in there to help themselves with water that--

Robert Bell: It's not even needed.

Sherry Bell: --was not even supposed to be coming through there.

Robert Bell: That is private property.

Sherry Bell: I mean, it's not supposed to come. They put it in to help themselves, so now you are saying we need a different sized pipe when the water is not supposed to be coming.

Bill Jeffers: No one ever sized your pipe and your pipe is too small.

Sherry Bell: But it's not supposed to come that way.

Bill Jeffers: We have a 15 inch pipe way up there at this so-called offending detention basin.

Sherry Bell: But it's not supposed to come that way.

Commissioner Mourdock: Can I move from history to something perhaps of a solution?

Bill Jeffers: First of all I want to go one step further. If we are going to punch a hole under...it were going to punch straight through this wall and underneath the McDonalds and down to Anthony Drive, then we are going to have to turn it and run it down Anthony Drive because that is where the maps show it went prior to 1969. Before these subdivisions were built, the water turned at that point and went right straight down the natural draw in which Anthony Drive now exists, so when we turn that water around the corner to go in front of your house instead of behind your house it is going to run right down the street.

Sherry Bell: It's going to go into his subdivision.

Commissioner Mourdock: But even that--

Bill Jeffers: That's okay.

Commissioner Mourdock: --being the case, Bill, you are still saying there is more water going that way now then there was previously because water that used to stay on the west side of Ward Road no longer does so.

Bill Jeffers: That plus there is no detention up in those hills. After they built Melody Hills there is no detention, so a lot more water goes that way, yes. It should all be over on the west side of Ward Road.

Commissioner Mourdock: Okay.

Bob Halcomb: (Inaudible comments from audience.)

Commissioner Mourdock: Well, there is not one easy answer because there is not one source.

Commissioner Tuley: No, there is multiple sources.

Commissioner Mourdock: Okay, does everybody agree on that?

Bill Jeffers: All I have do is look at aerial photographs.

Robert Bell: Nor have you ever heard us say--

Commissioner Mourdock: Well--

Robert Bell: Put it in front of my house. If I have to dig my ditches up...what's fair, he said it.

Sherry Bell: I would rather have it in front of my house than in my house.

Robert Bell: Yeah, I can handle that better than I can a \$22,000 loss and no insurance. I mean, I have no problem. Get it out from between my house and put it there. Then we've got to help Mr. Rucker because we are going to go down to the end of the street down there and there has been a couple of proposals on what he should do or somebody do on an area down there that nobody seems to know who owns the property--

Myron Rucker: Can I say something?

Robert Bell: Please do, I'm tired.

President Jerrel: Sure.

Myron Rucker: I've been down here three years in a row and you know my face. I know all of you all except for this man, he is new. You're going to run this water down there regardless into this little ditch and Mr. Jeffers has given me a proposal in which I can't afford. The proposal should have been given to the subdivision developer and builder before the lot was even built and made sure that he built it the right way and run that ditch through there. It's a 30 inch pipe. My goodness. He's supposed to have 39 acres of drainage water through this little ditch? Come on. I've been there since 1992 and since 1994 this ditch hasn't got it. I mean, he is talking two years ago and I am saying three years ago, you know? Please, you're going to run this water down there. It's not a legal drain. I have no say so whatsoever, but to get a raft. I was told off the record to get some sandbags and put behind my house so I could go on vacation. I haven't been on vacation in three years.

President Jerrel: While he is up here let's ask a question about that right-of-way back there where the ditch is behind his house. You know, that's grown up with fast growing small trees-

Myron Rucker: On one side and then they are saying my fence is in the way. It may be blocking it if you had an escape route over the top of the lift station, but the other side is not my property. That comes from Pine Street Drive and he has wrote up a proposal telling me that I need to clean this out, that out and most of the problem of the riprap and whatever, they didn't get a permit to put the lift station in they just put it in.

Commissioner Mourdock: Who is "they" Mr. Rucker? Is it SIGECO?

Myron Rucker: Whoever put the subdivision, the builder or--

John Stoll: Water & Sewer Department.

Commissioner Mourdock: Water & Sewer Department.

Bill Jeffers: Okay, there is an easement there for the Water & Sewer lift station, but part of the proposal at one time was to remove the pipe that accesses the lift station. Okay, there is like a 24 inch pipe there. Let's just pull it out. There was no permit given. There was not part of any design to stick a 24 inch pipe to cross over from that little gravel access road to service the lift station. Let's pull that out because that is what is causing the water to back up into Mr. Rucker's yard. A 24 inch pipe, corrugated pipe, partially blocked by riprap like he says. Let's pull it out.

Commissioner Tuley: What happens?

Bill Jeffers: Well, then they'll have to access the sewer station on the north side of Ms. Watson...? Watkins...? There

is a 16 foot wide sewer easement on the north side of Ms. Watkins' house that was originally put there so that they would have a gravel lane to go back to the pump station. So let's access it that way and get rid of that pipe.

President Jerrel: Would that help?

Bill Jeffers: It would. I have never seen a 42 inch pipe overcome by storm water, but I have seen the 24 inch pipe overcome three times and Mr. Rucker was out there that day, June 9th, last year and you saw that was the pipe that caused it to come up out of the ditch and go in your backyard.

Myron Rucker: Those numbers are pretty close, but--

(Several inaudible conversations from audience)

Bill Jeffers: Pardon me?

Commissioner Mourdock: Whose pipe is it?

Bill Jeffers: It belongs to the Water & Sewer Utility.

President Jerrel: Well, but no we need to make a move on some of these things.

Bill Jeffers: Our proposal was to enlarge that pipe and lower it, but they can't do that because there is a force main underneath of it.

President Jerrel: So you're saying just remove it?

Bill Jeffers: Take it out. Remove that obstruction.

Commissioner Tuley: We have the right to do it?

Earl Savage: Ms. Jerrel, can I say something?

President Jerrel: Sure, come on up. We'll all be up front!

Earl Savage: You're speaking of...my name is Earl Savage. I live at 2510 Anthony Drive. Seems like the big discussion is what to do with the water after it gets down to this man's house. You remember the day that you was out there and I asked a simple question? I told you I only had one question and I still haven't got the answer. Why can that...why do you not want the water to stay on Ward Road? Everyone has mentioned that the water has to come down Anthony Drive. You know, the day you was there it looks to me like the answer, maybe not all of it, to help him out and to help us, Mr. Bell, is to keep that water on Ward Road until it gets to St. George.

Bill Jeffers: Then whose problem is it when it all gets down there?

Earl Savage: Hey, that's not...that's--

Bill Jeffers: Who cares, right? Hucks? Let Hucks flood.

Earl Savage: Well, you got one person there...all the rest of us are flooding.

Bill Jeffers: Right, so let Hucks flood.

Earl Savage: Well, okay.

Sherry Bell: Why can you let our homes flood?

Robert Bell: Let me ask you a question.

(Several inaudible conversations from audience.)

Robert Bell: If you take and put a pipe...you're telling me the sizing of pipes. When they did Ohara Drive last week they put a oval pipe underneath there that big around. That big around underneath the whole street. Now, that sewer drain is open. I have walked it in the pouring down rain in the ditch. If that just got to the other side of Ward Road and went down it, what is the problem with putting a proper sized pipe in there and getting it off of the street anyway and down that ditch that exists there that is never full? Help me, Bill, help me.

Bill Jeffers: First it has to get through the 12 inch pipe under Anthony Drive.

Earl Savage: There is one reason that is hidden somewhere and I don't know where it is at.

Robert Bell: Somebody is not--

Earl Savage: The whole thing lies in the fact that somebody does not want that water to continue south on Ward Road. Where the answer is, I don't know.

Commissioner Mourdock: Mr. Savage, let me address that if I may. Quite honestly, I don't care where the water goes. I mean, I don't want it in anyone's house.

Earl Savage: This man here cares where it goes because it is ending up in his house.

Commissioner Mourdock: Let me retract that. That's not what...I didn't mean I don't care if doesn't go in your house. That's not what I am saying. What I am saying is if it can go east and not bother anybody I could care less if it goes that way or if it goes south or, yeah, south down Ward Road and doesn't bother anybody. Either way it doesn't matter to me. I don't care which direction the water goes. I would like it not to be a problem for anybody. The question that I have that I haven't had answer yet is if, in fact, that water is taken south down Ward Road, which in my head seems to be the logical answer--

Earl Savage: Mine, too.

Commissioner Mourdock: Okay. The question remains though is there capacity at the other end to deal with it that we don't, as Mr. Jeffers is suggesting, flood somebody else? I mean, we don't want anybody flooded.

Earl Savage: Right.

Commissioner Mourdock: Just let me finish, Bob.

Robert Bell: Go ahead, I just want to ask a question.

Commissioner Mourdock: On the June 9th date you are talking about, I think it was that date when I was out there, I did see that same ditch that you are saying never runs full I saw that flooded where it was running across the top of St. George Road. Not Ward Road, St. George Road. I have seen that flooded. That's where I have the tie-up. Like I said, I don't care which direction the water runs. I want to solve the problem. What I am hearing tonight, especially with this new wrinkle of having the easement behind the houses on Ward Road, it seems to me that could be step one if you as affected neighbors begin the procedure to start having that easement cleaned out or otherwise made again workable. That's going to solve some of the problem. It seems to me additional water could be diverted down Ward Road in some fashion whether it is with a curb, as I was mentioning to John, with then some steel grate or something to put it back underneath Ward Road to put it back over. That might be a possibility. The other possibility that exists, I think, are several of the items listed in John's letter that talk about the ditching along Ward Road...I'm sorry, along Anthony Drive good for the goose scenario. The other item, though, and this comes into play twice, what the city utility people have done...key word there is "city utility people", Bill just described part of it with the pipe that is down close to Mr. Rucker and the other thing they did is put in the station at Ward Road and St. George. I mean, we've got the same city/county and I know I'm on a kick on this right now, but you've got the city doing one thing and the county doing something else.

Robert Bell: When they put the pump station in is that the reason you can't put the pipe underneath that to get the water to go--

Commissioner Mourdock: No, no. Let me answer that because maybe he'll have a different answer, but that's not my main concern. My main concern remains the throughput capacity because I have seen that ditch along St. George flood clear over St. George Road.

Unidentified: At Ward?

Robert Bell: You said Whirlpool...maybe John did. Somebody said Whirlpool had that ditch cleaned out, okay? The big one out in the fields. The water as you was talking about filled that ditch up, they come over took it, I think they had Floyd Staub out there, and they've dug that all out, cleaned that all out and went all the way down that field and cleaned that big ditch out and now it just (noise)...I mean, it's a big change since you've been there.

Commissioner Mourdock: I was going to say, that's been since I saw that happen, so maybe hydrologically that's going to change things.

Robert Bell: The removal of water has definitely changed since Whirlpool spent the money on their end. That was a piece of farmland. I don't know if that was owned by Whirlpool, but anyway, they did that ditch.

Commissioner Tuley: Is there a ditch down both sides or one side of St. George?

Commissioner Mourdock: Depends where you are at.

President Jerrel: Bill, what if we did this? What if we looked at these three things? What if we tried to get the 24 inch pipe out? What if we tried to improve the drainage behind the property on St. Anthony and what if we ditched Ward Road on the east side?

Bill Jeffers: Okay, I'm going to tell you--

Robert Bell: (inaudible) or the property on Ward Road?

Bill Jeffers: Everybody is looking for some sort of bogeyman in the woodpile here and so I'll just give you an example. I'm not scared of anybody politically. Nobody is holding anything over our head at our office or anything like that. There is no bogeyman, but there is a guy that owns a plastic factory, makes little styrofoam pellets, down there on one of those industrial places down there off Baumgart Road and he calls...used to call frequently until he found out he is now in the city not in the county, but he would call me once or twice a year wanting to know how come his floor drains backed up out of that ditch and flooded the floor of his factory and he wanted something done about it. Well, this started way back '82 or '83--

Commissioner Mourdock: Has that happened since the improvements Mr. Bell was talking about a couple of minutes ago?

Bill Jeffers: I don't know, he doesn't call us anymore. I told him to start calling the city because they annexed that property. I got tired of talking to him. But what we did is we went out there and punched another pipe underneath Baumgart...this is right there in front of the ballpark and there is a big huge pipe, but it just wasn't low enough to drain that ditch, so we punched another 12 inch pipe underneath it as a low flow drain over to the ballpark and we did that, oh, I would say '83 or so. Jim Kerrigan can tell you when we did it and so will Mike Wathen. They were both down in the hole full of sewage. We got that through with the bridge crew and that worked for a while, but that hole got plugged up. It probably is right now again because they don't maintain the ballpark properly and they've let all that silt up. So now we take all this new water that never went that way and divert it down there and his factory floods again--

Robert Bell: Will that water go that way, Bill?

Bill Jeffers: Sure does. That ditch that Whirlpool or whoever you say built, it turns and goes right down there--

Robert Bell: Follows the railroad tracks behind the Whirlpool

plant to Pigeon Creek.

Bill Jeffers: No, sir. It turns--

Robert Bell: I walked the wrong damn creek then.

Bill Jeffers: You sure did because it turns right there at the freezer plant and goes right behind the factory I am talking about and that is why our office is going to continue to recommend, whether you accept our recommendation or not is up to you as Commissioners or the Drainage Board, do not take the water that historically has gone down the east side of Ward Road to the draw that Anthony Drive is in and then turn and went down Anthony Drive naturally, do not take that water and divert it someplace that may cause you a legal problem in the future. The pipe underneath...the pipe down by Mr. Rucker's house, the 30 inch concrete pipe, was designed to handle the storm water from the east side of Ward Road.

Commissioner Mourdock: Are you suggesting saying that though, Bill, that if that 30 inch pipe were taken out like you said before--

President Jerrel: Twenty-four.

Commissioner Mourdock: We're talking the same pipe, right?

Bill Jeffers: Uh-huh.

Commissioner Mourdock: The one you are saying ought to be taken out? Are you saying if that pipe is taken out that the water is not going to back up and the problems of Mr. Bell, Mr. Tabor and Mr. Savage goes away?

Bill Jeffers: Yes, if you also keep the water generated on the west side of Ward Road on the west side of Ward Road and don't allow it to cross over.

President Jerrel: How are we going to do that?

Bill Jeffers: Well, you could raise the crown of Ward Road. That would be one thing. There is four or five low spots where the water crosses over. You could raise the crown, you know.

Commissioner Mourdock: Put the curb in.

Bill Jeffers: Well, the curb would have a curb cut everywhere you have a driveway, so it would turn it right out.

Commissioner Mourdock: Not necessarily. I mean--

Bob Halcomb: You could put a speed bump.

Bill Jeffers: Well, if everybody wants a speed bump in their...speed bumps would be placed in the right-of-way so if they caused--

Commissioner Mourdock: That's the key though. We have right-of-way there.

John Stoll: We also have potential liabilities.

Bill Jeffers: If a speed bump caused an accident.

Commissioner Mourdock: We have that anyway.

John Stoll: Right, but I mean since we've already got...since we don't usually put speed bumps in the streets because of things like liability problems would we be creating something like that for ourselves by putting those in?

President Jerrel: Raising the crown of the road, would that create a safety problem or could that...I mean, some way to keep that water from crossing over there.

Unidentified: No.

President Jerrel: It wouldn't?

John Stoll: I guess it would depend on how much you would have to increase it to make it stay there.

Bill Jeffers: Well, I have never seen that water go across Ward Road more than about ankle deep. Has anyone else? Mr. Halcomb?

Bob Halcomb: Well, this new ditch that has been put ten foot in my yard it is containing that. I mean, it doesn't flow over.

Robert Bell: It doesn't until my basement fills up, Bob, and then it backs up on you.

Commissioner Mourdock: John, could you prepare a cost estimate to tell us with alternatives. Bill just suggested one. A crown on Ward Road. That's one. The second one would be if there was some type of containment structure on the east side of Ward Road, either as curbing or trenching or something while you've got that water out there on the pavement to move it all the way down towards St. George and then put it back underneath St. George...or underneath Ward. Are you with me?

John Stoll: Run the curb all the way down the east side and then pipe it underneath Ward along the north side of St. George?

Commissioner Mourdock: Either pipe it or put a box under it with a steel grate over it to make sure you are getting all the water coming down the road so that you don't end up flooding Hucks or anybody else on that side of St. George and let us know what that looks like. The other, I mean, I know those of you in the room don't want to hear this. I know you're not going to want to hear this, but a big part of this still is on your shoulders because of where we don't have right-of-way. That's where I bring up the point again about that easement that has now appeared on the west side of Ward Road. I mean, if, in fact, that's part of the solution, and I believe it is, then that's something that you have to deal with because you're the affected owners. The other--

Robert Bell: Could I ask one going along with your numbers to

Mr...to John here?

Commissioner Mourdock: Sure, go ahead.

Robert Bell: One of the people here in the audience just asked me to ask a question. We're working on the west side of Ward Road. We went out there year ago, two years ago, with your recommendation of working that side of Ward Road, on the west side, and we all know that it was not done properly whatsoever. Okay? While we're looking into this is this an area to help those people and us that this could be done properly? What I mean by properly is that the units that were put in were done in a method of if they ran into a six inch pipe and they had a 14 inch pipe they put it over the top of it and concreted it shut so water is not flowing on the west side anyway. Okay?

Commissioner Mourdock: I understand your point in the way the piping was done. I mean, I understand what you are saying with that as far as helping the people on the other side of the road, I'm not quite sure what you mean by that. It seems to me if we do something on the east side of Ward Road within our right-of-way we are helping those people.

Robert Bell: Well, in both cases we've already went over and done that as a body and they put drainage units in which you and I have looked at before that stick up higher than the road surface itself, so the water can't figure out how to jump in those things. They wasted that money in my view, you know? The idea of the driveways being cut or the small tiles taken out from underneath the driveways, we're now experiencing the fact that we can't have this done. You can't go up and cut somebody's driveway and put a tile in it when it's in an easement right-of-way, but yet they do it on Oak Hill Road.

John Stoll: We can do it, but like I said in that letter, typically it's always been the county's policy that the property owner buys the pipe and if the property owner doesn't perceive a need for a pipe then they won't buy it which just drags out projects for infinity.

Robert Bell: Well, they--

Commissioner Tuley: Wait a minute, though. When you cut up their driveway--

John Stoll: We'll replace it. I mean...

Commissioner Tuley: They better figure out they need a pipe unless they've got a pogo stick for an automobile. How are they going to get into their garage.

John Stoll: Oh, I see what you're saying. If we just ripped it out and didn't put anything back.

Commissioner Tuley: They're going to have to put something back.

Robert Bell: The thing is we look at what they did with the water situation in Vanderburgh County on Oak Hill Road, which is

just a block from us, they waltz right down through there and cut every driveway and did anything they wanted to do threw that new water line in that hole and--

Commissioner Tuley: The same thing that happened on Pollack.

Robert Bell: Pardon?

John Stoll: If you drive down Oak Hill Road in a rainstorm you'll see a pretty similar situation to what we've got on St. George, Ward and Anthony because everybody piped the ditches and it's flooded as all get out during a good storm, too.

Commissioner Mourdock: John, tell me again. What is the structure that the utility people put at the corner of Ward Road and St. George?

John Stoll: It's a pump station.

Commissioner Mourdock: To pump--

John Stoll: That's a water pump station.

Commissioner Mourdock: Okay, fresh water.

John Stoll: The only way around that without having them relocate that I think if you could make a pipe system work along the west side of Ward Road you would have to pipe it across Ward to the east side and then you would turn around and pipe it right back once you get past it. Other than that I don't know how you would get around it without making them relocate that.

Commissioner Mourdock: Say that again. I'm sorry, you lost me. You're bringing it down...?

John Stoll: If you were bringing the water down the west side of St. George then you get down...I mean, the west side of Ward down to that pump station--

Commissioner Mourdock: Right.

John Stoll: Short of making them, the Water & Sewer Department, relocate that pump station I think the only thing we could come up with was that you would pipe it east across Ward, run it in a ditch or a pipe or whatever down there around Mullens and then you would have to turn around and bring it right back. It seems like--

Commissioner Mourdock: Yeah, because that water has to flow back west?

John Stoll: Right.

Commissioner Mourdock: Is there not room at the end of Ward, is there not sufficient room in your opinion to bring the water across one time? In other words, if you are bringing it down the east side of Ward, can you bring it down far enough that you get below that station and then send it west down St. George?

John Stoll: If you were just trying to get the east side water you could do that, but the west--

Commissioner Mourdock: That's what I am saying.

John Stoll: Oh, you're assuming it is still going to cross the pavement?

Commissioner Mourdock: Yeah, I am saying it is going to cross the pavement, cross under the pavement somehow, but it is being funneled down the east side of Ward Road however we are going to do that and then once we get it to that point then we send it under Ward Road and down St. George.

John Stoll: Right at St. George Road? Yeah, right on the north side.

Bob Halcomb: It's already been there. The ditch is there. It is starting to work okay.

Commissioner Tuley: Mr. Halcomb, so the ditch runs it past your house and if I remember your house you've got the nice big backyard, but all the water just flowed over it, but it's not doing that anymore?

Bob Halcomb: Well, (inaudible) it's coming between Benny Bauer's old house and the new house. It's still coming down there, but it is not a consequence anymore. I don't think (inaudible).

Robert Bell: What comes across Mr. Halcomb's property doesn't create as much (inaudible) as what we've already got.

Commissioner Tuley: So let's just follow his lead on this.

Bob Halcomb: That's what Bob was trying to say. There are only three houses right now that you have to put pipe under to go all the way down--

Robert Bell: Mr. Mourdock, the drainage that runs in the church parking lot, was the county or anybody...that is what runs in front of that tile, you know, and then it goes over and about half way the church property shoots back into the ditch on St. George. Is that church or is that part of the drainage program of the county out there?

John Stoll: That was nothing to do with the county. They claim they had a permit that the county authorized that pipe size. Nobody could every produce a copy of that permit and when we proposed, back when we were talking about ditching the entire west side and leaving open ditches, I heard from I believe it was the Fire Chief who claimed that this was going to be an unreasonable financial burden on that church. I said, show me the permit and he didn't have a copy of the permit. Nobody does, so it is nothing to do with us.

Robert Bell: He is strictly against helping at all.

Commissioner Tuley: Let's do finish your thought there because if we can't...if the reasonable solution is to bring it down and

keep it on the east side until we get down there and then pipe it under Ward or whatever we have to do, I mean...

Robert Bell: What is on the south side of St. George? Is there a (inaudible).

Commissioner Tuley: I--

Robert Bell: You know that goes from all the way up at Cunningham all the way down through there before it ever hits a ditch. Do you have any idea, Mr. Jeffers, what is over there? What I was thinking about, could it be taken under St. George and tied into it if there is something that exists over there because there are no inlets there whatsoever.

John Stoll: I doubt there is anything. None of those streets were designed as curb and gutter, so that's what would typically trigger all the storm sewer systems and curb inlets and things like that.

Commissioner Mourdock: Also, if you do that would you give us, maybe you and Bill can work together on this one, come up with an idea as to how many additional acres of watershed would be going down to the west. Obviously, that's Bill's concern and a valid one.

John Stoll: Well, we've also got the issue of whether or not we are going to be increasing flows on Whirlpool's property and whether or not we have to have some sort of easement rights.

Commissioner Mourdock: That's what I am talking about. The increased watershed that we would bringing south to send their way. That's precisely what I mean.

President Jerrel: Bill, would you want...would you help me draft a letter to the Sewer Department which I will walk around and take to some other people before it gets down there to see if I can't get some help in getting that done? Would you help me do that? Okay. I mean, that's not going to do anything. It should help shouldn't it.

Bill Jeffers: It depends on what I said!

Commissioner Mourdock: Regarding?

Bill Jeffers: I find it real curious that they feel like they can locate wherever they want to just because it says R.W. on it on the piece of paper.

Commissioner Mourdock: You got it! You got it, Bill. I totally agree with that one. I am--

Commissioner Tuley: Well, let's sue them.

Bill Jeffers: I mean, that right-of-way from Knob Hill Drive is just...it's just on a plat. It's not accepted right-of-way.

John Stoll: Some of the plats even say proposed right-of-way, but no dedication statement on the plat itself. I don't think that right-of-way, according to what previous county attorney

told me, that right-of-way really exists up the top of Knob Hill, but there is manholes all through it. Just the way it was worded I ran it past him, so like Bill say their just using it.

President Jerrel: We're not getting anywhere further, but let's get some prices on these things so we at least know what we are talking about in terms of money and then you sleep on this 24 inch pipe.

Commissioner Tuley: Wait five more minutes before we get out of here before you go to sleep though!

Commissioner Mourdock: Can you give us any kind of rough estimate as to what it would cost to move that pump station?

John Stoll: I have no idea. I saw a copy of the plans for it last week and that is something that we've not dealt with on the other county projects since I've been here.

Commissioner Mourdock: Could you give them a call and find out what it cost them to put it in there?

John Stoll: Sure.

Commissioner Mourdock: Because if--

Bill Jeffers: It costs twice what it cost to put in plus the inflation rate.

Commissioner Mourdock: It's been in there what...? Three years?

John Stoll: I'd say probably two.

Commissioner Mourdock: Two?

Commissioner Tuley: That's their problem.

Commissioner Mourdock: That's right.

Commissioner Tuley: They put it in our right-of-way without--

President Jerrel: Permission.

Commissioner Tuley: --permission or permitting or whatever. I don't know, I just sat here all night doing more listening than talking, but it seems like if there is a way, and, John, you put those figures together, those numbers together, and see if we can quit fighting trying to keep it on the west side. If it is going to come to the east side if we just deal with it without sending it Mr. Rucker's way--

Myron Rucker: Thank you.

Commissioner Tuley: --more people in here would probably be a little more happier the next time they see us.

Commissioner Mourdock: But don't discount also what Bill was saying about part of Mr. Rucker's problem being a too small of pipe.

Commissioner Tuley: Right.

Commissioner Mourdock: Twenty-four inch or whatever it was. I mean, the pipe--

Robert Bell: I've got an old pickup, Bill. What do you think it would take to pull that pipe out of there for Mr. Rucker? I can give her a hell of a yank! If that's all it takes to help him.

President Jerrel: Well, what we'll do, we'll get all this stuff and we'll send you a copy of whatever we find and we'll reconvene.

Robert Bell: Did anybody end up with my paperwork, my plots?

Commissioner Mourdock: I think it went back that way, actually.

President Jerrel: They're right there.

Robert Bell: Anything else? Do we wait to hear from you folks or do you want us to contact somebody or what are we doing?

President Jerrel: We're going to get these numbers and then we are going to contact you. Now, is there something they can be doing while we are doing that?

Commissioner Mourdock: Well, I would go back to what I said regarding that property, the easement on the west side of the back of the lots on Ward Road.

President Jerrel: The lady that had--

Commissioner Mourdock: You think that's part of the problem. Yeah, Ms. Tracy, was it? Again, let's start with this premise because I think we are all going to agree on one thing and this isn't just the result of one problem. It's a whole series of different problems and if that is part of the problem, then that's in your ballpark to solve, not ours.

Robert Bell: If you strictly feel like that it would be a good move on my part and Ms. Tracy might lead me to introduce me to these people, I would be more than willing to go up that neighborhood because if they live on the east side of what should have been a swale, then they are going to be experiencing some water problem whether they realize it or not and might like to have a dry backyard. You know? So it may not be a problem.

Commissioner Tuley: Are they experiencing water problems on the east side.

Robert Bell: Some of them have got water in their houses. Most of them have been sewage.

Commissioner Tuley: On the west side?

Robert Bell: Yeah, on the west side. Up towards Dussendorf one of the ladies that lived their for 38 years that I talked about, her son bought a home up there and they can't even dry the

backyard out. Now he is talking about going in there and putting in a bunch of railroad ties and stuff--

Commissioner Tuley: So they are having problems at least within their yards if not their homes?

Robert Bell: Yeah.

Commissioner Tuley: They might be responsive.

Robert Bell: It might be something that they would be open-minded to.

Commissioner Mourdock: I would hope that they are. How you start the process is that direct thing. You start talking to the people and if they won't do it, then the best way, and I know you don't want to hear this either, no one likes this bit of advice, contact a lawyer who is familiar with the 1996 drainage law and start doing the petition process that has to come back to the Drainage Board.

Robert Bell: My only question and then I'll stop is that when we get to the church at the corner of Ward Road and St George Road, I hope you people realize that there is a lot of us that's got a problem. I realize that that gentleman is involved in politics and if his church needs something to be done and you mentioned the fact that he came forward that way with the Fire Chief, we're all a neighbor out there and we should work together and I would like to talk to the man.

President Jerrel: Who is that man?

Commissioner Tuley: (Inaudible) church.

Commissioner Mourdock: Wait, don't ask that question.

President Jerrel: Oh, don't ask?

Commissioner Mourdock: That's just what I was going to say because you just inferred something rightly or wrongly that you think it is political. Bettye Lou just said, who is that? And don't you say. Bettye Lou just said who is that person? I have no idea who that person is and I'll make the comment that Mr. Jeffers made earlier, I don't care about the politics of it. I'm just here to solve a problem.

Robert Bell: Thank you. That's all I wanted to hear because I do know that the gentleman has spoke downtown in his opinion.

Commissioner Mourdock: Everybody in this room has spoken downtown tonight.

President Jerrel: Well, I know that you all aren't happy and we're not happy and we're all tired, but we're talking. As long as we're doing that maybe we are working towards a solution. I know we would like to have one.

Commissioner Mourdock: I would come back to the numbers, John. Could you have something for us next week? Long silent pause.

No more than two weeks?

John Stoll: That would be good. The only reason I was hesitating is finishing up the contract for County Line East and we're trying to get the ditches addressed along Walnut, so that would work better.

Commissioner Mourdock: Two weeks.

President Jerrel: Is there any other?

Bill Jeffers: Big Creek Drainage Association wants to ask for some--

President Jerrel: Oh, and he has waited through all of this?

Commissioner Tuley: He sat here all this time?

President Jerrel: He's been sitting here all this time. Oh...

Commissioner Tuley: Bob, if John gets those numbers to us two weeks from tonight, then hopefully two weeks from Wednesday you should have some kind of correspondence. We'll just have John write you directly or call you directly.

Commissioner Mourdock: Yeah, let's just have John cc. When you send them through to us, realizing what you are going to see is a draft, label it as a draft, send a copy to Mr. Bell.

Bill Jeffers: I never thought it was worth building. I never thought enough water came out of Al Buck's property to need it, but everybody wanted something.

President Jerrel: Bob, I never dreamed I would be looking at you like this. I taught him in school a long time ago.

Commissioner Tuley: You taught half the city of Evansville!

Bob Halcomb: Yeah, she was my handwriting teacher. She actually gave me a B. I still remember that!

Commissioner Mourdock: We won't ask you to sign your name or write something on the board.

**Big Creek Drainage - Request for funds**

Commissioner Mourdock: Okay, Big Creek Drainage.

Bill Jeffers: Okay, we have two letters because we didn't know which gentleman would show up. They are identical letters. The fellow who came down to represent Big Creek Drainage Association is John Bittner, the Resident Agent of Big Creek Drainage Association Incorporated. He has signed the letter. The other letter would have been signed by Gene Kuehn, the President of the Association, but they are identical letters and I'll give those to your Recording Secretary. They are asking for \$2,000 to repair approximately 600 feet of the north bank of Barr Creek immediately east of Vanderburgh/Posey County line and dress those slopes back to 2½:1 or 3:1 side slopes as they used to be.

The last time that we did this project, I believe, was mid '80's. About '83 to '85. It needs it again. Real sandy soil needs it again. Then Linda Freeman has prepared this for you to show that in that account for Barr Creek we estimate our year-end balance after all payments made to be \$4,680.27, and then minus the \$2,000 would leave \$2,680.27.

President Jerrel: Alright, so we'll entertain a motion to appropriate the funds from--

Bill Jeffers: From account number 234-009.

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered. Well, John, I hope you learned something tonight.

Bill Jeffers: He's heard it all before.

President Jerrel: Has he?

Bill Jeffers: Yeah.

President Jerrel: The same scenario?

Bill Jeffers: (Inaudible).

President Jerrel: Oh.

Bill Jeffers: Oh--

<b>Maasberg Road bridge review</b>
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Commissioner Mourdock: Did you have something on a timber bridge?

Bill Jeffers: Yeah, there was a timber bridge that is pending construction on Maasberg Road and a package, I believe, is ready to be delivered if funding goes. John Stoll asked us to review the plans and we sent a letter over to him and I copied Tony Greubel, I believe.

President Jerrel: We got something at last Monday night's meeting.

Bill Jeffers: Yeah, it came to your meeting and I would just ask if you all would enter that into the Drainage Board minutes as well to show that we did find that to be an acceptable bridge design. I didn't bring the letter with me.

President Jerrel: That's alright, Charlene has a copy.

Commissioner Tuley: I'll so move.

Commissioner Mourdock: Second.

**Burkhardt Road discussion**

President Jerrel: Also, are you all working together on Burkhardt?

Bill Jeffers: John and I are working together and then we are going to try to get two more heads together on that and that would be Mr. Brenner and Mr. Harrison.

President Jerrel: Okay.

Bill Jeffers: We would like for them to sit down and see if everybody is on the same track.

President Jerrel: Okay.

John Stoll: I've got some preliminary cost estimates on the single versus the double box culvert. United submitted those last Friday, so I haven't shared those with Bill as of yet, but we will.

President Jerrel: Okay, is there any other business to come before the Board.

Commissioner Mourdock: Just that about two and a half hours ago I wrote that we would get out of here at 10:25 p.m.

President Jerrel: You did!

Commissioner Mourdock: So I move for adjournment.

Bill Jeffers: Wait a minute, we've got 45 seconds!

Commissioner Tuley: I move to adjourn.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 10:25 p.m.

***Those in attendance:***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
John Stoll  
Bill Nicholson  
David Hynes  
Bart Schutz  
Terry Chronert  
Andy Easley  
Kimber Hedden  
Dolores Goebel  
Robert Bell  
Myron Rucker  
Sherry Bell  
Joyce Tracy  
Bob Halcomb  
Ralph Tabor  
Michael Johnson  
Earl Savage  
Others unidentified

VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS

---

Richard E. Mourdock, President

---

Bettye Lou Jerrel, Vice President

---

Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
July 28, 1997**

The Vanderburgh County Drainage Board met in session this 28th day of July in the Commissioners' Hearing Room of the Civic Center Complex at 7:10 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I would like to call the Vanderburgh County Drainage Board to order. The first item on the agenda, you have the minutes of the previous meeting and may I say that they are a real heavy duty set of minutes and, Charlene, we appreciate your work because she captured everything in these minutes and there are 58 pages.

Commissioner Mourdock: Single spaced.

President Jerrel: Single spaced.

Commissioner Mourdock: This is what you get when a meeting lasts till about 10:00.

Unidentified: Or longer.

Commissioner Mourdock: We offer that as a hint...that's right, it was 10:45, yeah.

Unidentified: Should we go put more money in our parking meters?

Commissioner Mourdock: I'll move..I'll move that we accept the minutes of the June 23, 1997 Drainage Board meeting.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Lots 12 & 13, Metro Center East - Final drainage plan**

President Jerrel: The first item on the agenda, the final drainage plans and is Mr. Jeffers among us?

Commissioner Mourdock: That would help wouldn't it? For all of you waiting with bated breath, Mr. Jeffers works with the Surveyor's Office and he's our technical advisor for the Drainage Board, so we are helpless to proceed without him.

Commissioner Tuley: Sometimes we are even helpless with him.

Bill Jeffers: Are you down to C?

Commissioner Mourdock: Yes, we are.

President Jerrel: Yes.

Bill Jeffers: Okay, sorry I was late. That's the Bible Book & Gift Store. It will cover Lots 12 & 13 of Metro Center East and its common location is the southwest corner of Virginia and

Metro Drive. It's immediately adjacent to previously approved plans for Spurling, for the Spurling project that covered the, I believe, the lot right next door, 14, so I compared it to that plan to make sure they had matched the grades that we approved for Spurling and it did match that. Care to see this?

President Jerrel: Uh-huh.

Bill Jeffers: It's just a large rectangular building set fairly well in the middle of the two lots. The circles, I believe, are just green landscaping areas for green space around the perimeter of the building, then the parking lot covers pretty much the rest of it. Those triangular shapes or trapezoid shaped lines just show you the direction that the water flows down to a catch basin at various points around the parking lot and then all the water is collected and goes out the east side into the existing drainage system for Metro Drive. There is an orifice plate in the pipe before it drains out into the storm sewer system to control the rate of runoff from the parking lot, so during extreme storms the parking lot may have four to six inches of water standing in it as its form a detention. It complies with the requirements for the drainage ordinance and our office is recommending final approval of the plan for Bible Book & Gift Company, Lots 12 & 13, Metro Center East. It also conforms with the previous plan that was approved for the entire subdivision and this will allow them to pass the Site Review Committee and acquire a building permit for that site.

Commissioner Mourdock: I'll move approval per the recommendation.

President Jerrel: I'd like...I was going to first see if there was anyone that wished to speak. Is there anyone here that wishes to speak for or against the final approval of Bible Book & Gift Company, Lots 12 & 13?

Bill Jeffers: Mr. Jim Farney is the engineer who drew the plan and made the calculations. He's here in the audience.

President Jerrel: Okay, there is a motion and a second for approval and so I will so order.

**Jarboe Subdivision - Final drainage plan**

Bill Jeffers: Both those drawings are the same. I highlighted in yellow on the one that Mrs. Jerrel has in front of her the additions we asked the engineer to put on the drawing for Jarboe Subdivision on St. Wendel Road. You'll remember that there was a lady here last month who lived next door and basically all we asked them to do is to add the comment that the large valley that runs down through that lot that they intend to build a new house on is a natural surface watercourse and cannot be blocked and then to make the statement that a pipe size for the driveway must be acquired from a registered engineer. If the driveway crosses the watercourse, he will have to come back and show us a plan with the pipe size. He may choose a point for his

driveway which would not interfere with that watercourse and with those comments we would make the recommendation that the final drainage plan for Jarboe Subdivision be approved.

President Jerrel: Is there anyone here that wishes to speak concerning the Jarboe Subdivision on St. Wendel Road? If not, we will entertain a motion.

Commissioner Mourdock: I'll move approval of the final drainage plan for Jarboe Subdivision as recommended by Surveyor.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Astoria Subdivision-Final drainage plan**

Bill Jeffers: Okay, the next plan on your agenda is Astoria Subdivision on Schlensker Road. We have that under final drainage plans, however, I'm going to make a comment on that in just a minute. The plan was drawn by Mr. Billy Nicholson, who is here in the audience, the engineer representing the developer. The developer is Gary Williams, who's developed the property adjacent to it known as Sycamore Hills. Basically, Lots 1, 2, 3 and 4 will be left in the condition that they are in today with man-made ponds that have been there for years left in place operating as they currently operate. They do provide some storage capacity which he has shown in the accompaniment...in the calculations that accompany the drawings. The large lots are being converted to lawns with one dwelling on them only per lot do not require any huge capacity of storage. Those ponds meet the small increase that will be generated, however, there is a roadway being constructed and he has a third basin near the entrance of the roadway out by Schlensker Road and another basin that's going to be improved on Lot 5, and those two basins will handle the additional runoff generated by the roadway surface. The reason that the request for final approval is being made is that two of the lots have been pre sold. The potential buyers are antsy to get a building permit. It will go to the Area Plan Commission the first Wednesday of August and if they pass the primary plat at that time the developer is wishing to turn right around within a couple of days and record the final plat at the Recorder's Office, thereby enabling building permits to be issued immediately on the two lots that have been, what I'm calling, pre sold. I'm not privy to language of the contract, but he has buyers for two lots. We have no problem with that except that Lot 5 is going to require the installation of an all new basin up near Schlensker Road, which I mentioned, and in some minor improvements to the existing lake on that lot that discharges off-site into another person's property. At this time there are protective measures that have already been taken by the property owners to control that runoff, but we would like to see, before we give final approval of Lot 5, we would like to see the design on the ground and see the final street plans which will be submitted to Mr. Stoll's office between now and the time of the final plat recording. So at this time we're recommending approval of the final drainage plans for Astoria Subdivision for Lot 1, Lot 2, Lot 3 and Lot 4 and preliminary approval for Lot 5 with final

approval for Lot 5 coming at such time as we see the street plans and see the construction taking place at the site. He can come back then and he can record a plat for the first four lots if it meets the requirements of Area Plan Commission.

President Jerrel: A question before I see if anyone wishes to speak. You're asking for final approval of the 1, 2, 3, 4 right now and preliminary for Lot 5 and final when it meets what you have stated? You want that in the motion tonight or you want to...both preliminary and final for Lot 5?

Commissioner Tuley: He just wants preliminary tonight.

Commissioner Mourdock: Five would just be preliminary.

Bill Jeffers: Five would be preliminary.

Joe Harrison, Jr.: Final for the first four.

Bill Jeffers: Final for the first four. There's nothing in our ordinance that says you can't go for final right off the bat. It's just a step some people take to save costs before they go to APC.

Commissioner Mourdock: But we would have to deal with them, obviously, in two separate motions.

President Jerrel: Is there anyone here that wishes to speak to the Astoria Subdivision? Okay, we'll entertain an appropriate motion.

Commissioner Mourdock: I'll move final approval for Lots 1, 2, 3 and 4 for Astoria Subdivision as recommended by the County Surveyor.

Commissioner Tuley: I will second.

President Jerrel: So ordered.

Commissioner Mourdock: I will also move preliminary approval for the drainage plan of Lot 5 for Astoria Subdivision as recommended by the Surveyor's Office.

Commissioner Tuley: Second.

President Jerrel: That is also so ordered.

**Ashley Subdivision - Final drainage plan**

Bill Jeffers: The next plan is Ashley Subdivision which is located at the northern most end of Eichoff Road just north of Hogue Road. Mr. Easley is in the audience and he is the engineer whose company prepared these drawings. The plan has received preliminary approval a month or so ago. The granting of final approval will allow the developer, Mr. Broerman, to proceed with constructing streets, so forth, and acquiring building permits for the first parts of the...or for the construction of the

first few homes. The only problem...well, we had several comments that were conveyed to Mr. Tom Keith, who works for Mr. Easley. Mr. Keith has applied all of the suggestions and requirements we had proposed into these plans and the only concern that is still being raised to my knowledge, although there may be others in the audience who may wish to speak to problems I do not know about or concerns I do not know about, is that there is a pond immediately east of this property and adjacent to Lots 36 & 37 and it's owned by another person whose land is adjacent and immediately east of those lots. Some part of the dam, the back slope and part of the toe of the dam, exists on Lot 37 and we did not know how to address this because it just so happened that the survey line crossed that portion of the dam when the property was sold years ago. The only way we could figure to address it was to ask them to apply a 15 foot wide easement. The only thing we could figure to call that easement was a drainage easement because we are dealing with the Drainage Board and we're dealing from the point of view of drainage. We feel that 15 foot wide easement is sufficient to house whatever part of that back slope of the dam exists on Lot 37 and would allow the purchaser of Lot 37 to deal with any situation that might come up like he and his neighbor who owns the pond could work together to move or repair the back slope. The property owner of Lot 37, if he noticed the toe of the dam seeping, could install a swale, which we asked for the design of that and it's in those plans, the design of an intercepting swale at the toe of the dam or a toe drain of some sort to intercept any seepage and carry it due south through the rest of the drainage easement into the channel that is being constructed through SIGECO's easement along the south line of this subdivision, but we felt that there should be language on the final plat that notifies the property owners of lots...or the potential buyers who might be looking for a lot out there, give some way to let them know when they're looking at that lot that Lot 37 has this situation. That easement should also be there for the owner of Lot 37 and the adjacent landowner who owns the pond to both work within that easement should the need to do so arise. The easement also makes that lot even smaller. It's there at the end of a cul-de-sac, which already cuts down the size of that lot, so now you have a very impacted lot so far as how much is useable to build a house and use say patios and swimming pools. The language, not the exact language, but the suggestion for language that we want applied to the final plat is over there on the right-hand side in red and basically just as a notification to land...to purchasers that the easement exists and what it's for.

Commissioner Mourdock: So the easement that you're looking to grant is to the property owner to the east of this property who actually owns the pond?

Bill Jeffers: I'm not sure we can grant that easement to the adjacent property owner but we can--

Commissioner Mourdock: Who are we granting it to then?

Bill Jeffers: We're just establishing a drainage easement within which no fences can be put, so forth, and there is a ditch designed in the plans that could be put in there if the need

arises to intercept seepage from the pond. But right now it's my understanding that Mr...the owner of the land that the pond is on is consulting with the Soil Conservation Service to drain the pond and convert it into a dry basin that would intercept storm water and silt, what they used to call a WASCOB, and we've talked on the phone several times and he's talked to Mr. Rice, from Soil Conservation Service, and that's his intention. He looks at it as potentially a pond that is not any longer useful to him, that maybe a liability should children live adjacent.

Commissioner Mourdock: You made the comment, Bill, and quite appropriately, that the lot is pretty small to begin with and you're dedicating a fairly large percentage of the lot. Have you gotten any comments back yet from either Mr. Broerman or does Mr. Easley have any comments regarding their acceptance to that as a condition?

Bill Jeffers: I haven't had any comments from either person at this time.

Commissioner Mourdock: Okay.

Bill Jeffers: Other than, you know, the transmittal of that plan to our office as you see it.

Commissioner Mourdock: Joe, do you have comments from the legal point of view on that?

Joe Harrison, Jr.: It just appears to me that the easement would have to run in favor of somebody.

Bill Jeffers: Well there is a statement on the plat there that says all easement shown hereon are dedicated to the use of the utilities or in the case of drainage, to the use of the...or it's clear that it's for the use of the individual lot owner and the lot owners' association to maintain it.

Joe Harrison, Jr.: Okay.

Bill Jeffers: That's in the language that will appear on the plat and the notices and the owner's certification.

Joe Harrison, Jr.: That was my only question. It's got to run in favor of somebody.

Bill Jeffers: Right. I'd like for, you know, I don't know if it's legal. I'd like for the pond owner when he starts converting that pond into a dry basin to be able to dress up that back slope, come over on that property and dress the back slope up and I think the language could be modified to include that. We could discuss that in an administrative way when the plat arrives at Area Plan Commission.

President Jerrel: So you're saying that for the purposes of discussion, if the final drainage plan is passed that will still be addressed--

Bill Jeffers: Administratively when the plat arrives at the Area

Planning Commission, I'm encouraging the developer, Mr. Broerman, to include the language in the notice or the certification on the final plat. Hopefully, it's there and we'll address it when it arrives at the Area Plan Commission office on its way to final recording.

President Jerrel: Is there anyone here that would like to speak to the Ashley Subdivision on Eichoff Road? Is the developer here?

Commissioner Mourdock: No, I don't see him.

President Jerrel: Nobody else here?

Bill Jeffers: Mr. Easley is here to represent the developer.

President Jerrel: I want to make a comment that needs to be made before we hear anybody else. I'm speaking now, in fact if I could get from this chair around in front of that microphone, I wish you would say something to your developer because we just heard a plea made by the County Highway. They are paving all of Hogue Road and they would rather not have it cut up after it's just been paved, so if somebody is going to do something out there they ought to get on with it.

Andy Easley: Well, there is a force main to be built, but I've... I've forgotten exactly the route of the force main.

President Jerrel: Well, we were trying to look at the small inset map and somebody ought to take that into consideration. To pave a new road--

Andy Easley: How soon is it going to be paved?

President Jerrel: Well, they're paving it right now --

Commissioner Tuley: They've stopped, actually.

Commissioner Mourdock: It's in the process of and have actually ceased our paving because the Water Department was supposed to have been out there, supposed to have been out there, supposed to be out there and haven't gotten there.

President Jerrel: So you need to, if you will, because somebody...we're not going to pay for this twice. Somebody is going to pay for it.

Andy Easley: I will look into that. I'll see what utilities--

President Jerrel: Would you please?

Andy Easley: Yes. No, I agree with you because when I was County Engineer we made a real effort to coordinate what had to be done ahead of the paving program.

President Jerrel: Well, we'd appreciate it because we've tried to alert them with four notices and so, would you?

Andy Easley: Yes.

President Jerrel: Okay.

Commissioner Mourdock: Do you have any other comments?

President Jerrel: Well, and I was going to say, if you could contact Bill and let him know so he could...or call our office and let us know what you find out.

Andy Easley: Okay.

President Jerrel: Is there anything you would like to say about the--

Andy Easley: The lot that's affected by the dam, Mr. Broerman has been talking to the owner of the dam and there's been some discussions about the owner of the dam wants to cut a notch in it, I think as Bill indicated, and they're trying to work out what needs to be done, so it may be that if he does, in fact, go through with the plan to drain the lake, then on the final plat for that section we will endeavor to do whatever in the way of phraseology that Bill thinks is appropriate.

President Jerrel: Any other questions?

Commissioner Tuley: No, that was the question I had, he already got it.

Commissioner Mourdock: I'll move approval of the final drainage plan for Ashley Subdivision on Eichoff Road.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Cross Pointe Section 3 - Reaffirmation of final drainage plan**

President Jerrel: We're ready for the preliminary drainage plans. The first one is Scott.

Commissioner Tuley: No, Cross Point 3.

President Jerrel: Oh, we do? How did I get...I just...I check them off and consider them done. I moved too fast. The next item is Cross Pointe, Section 3, on Indiana Street and Cross Pointe Boulevard.

Bill Jeffers: Cross Pointe, Section 3 is a part of the Cross Pointe development that has already received final drainage approval, I think, two or three years ago. It contains a lake back behind the Allstate Insurance Adjustment Center. That's the design of the lake. That's the layout of the drainage plan. Everything is already in place. It's at the northeast...no, the northwest corner of the intersection of Cross Pointe and Indiana and there's been ongoing discussion about the dedication of Indiana as a public right-of-way and that's been done now by the

developer. I don't know, something happened along the way between the previous approval of the final plan and the recording of the plat where time deadline lapsed and they need reaffirmation of the final approval of the plan. It is, in fact, in place as designed and is operating as approved and our office recommends reaffirmation of the approval of the final drainage plan of Cross Pointe, Section 3. That plan is actually the old plan. It doesn't show the extension of Virginia Street all the way to the west of that line down to Outback Steakhouse's parking lot. What you're looking at is immediately across from O'Charleys and El Chico's and the only thing I can think of that's in there is Allstate Claim Center, some hospital, I think.

Commissioner Tuley: It looks like there might be something going on right now at that intersection.

Bill Jeffers: Oh, they're building a new hotel.

Commissioner Tuley: Is that what it is?

Bill Jeffers: What is it...Drury Inn, I believe? Yeah, right there on the other side of the pond.

President Jerrel: Is there anyone that wishes to speak to the Cross Pointe, Section 3, on Indiana and Cross Pointe Boulevard?

Commissioner Mourdock: I'll move reaffirmation of the final plan of Cross Pointe, Section 3 as recommended by the Surveyor's Office.

Commissioner Tuley: Second.

President Jerrel: So ordered.

<b>Knight Township Fire Station - Preliminary drainage plan</b>
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Bill Jeffers: Do you want to take the preliminary plans in the order that they're on the agenda?

President Jerrel: What you're saying to me is that there's less... there's a great deal of discussion on Item 1 and less on 2, 3 and 4?

Bill Jeffers: Probably 1 and 2. There's probably no discussion whatsoever on 4.

President Jerrel: Well let's take 4 first then.

Bill Jeffers: Okay, Number 4 is the Knight Township Fire Station which is...will be a new facility located just south of Boonville Highway on the west side of Burkhardt Road. I think there is some sort of rehab center facility there at the top of the hill, then as you come down the hill towards the old fire station they're going to build a new one. All I have with me is the runoff calculations from Don Wedeking, the designer, then I have a site drawing of the fire station where it will sit on the property and the location of the dry basin at the back of the

property to which presumably all the runoff will be directed. However, there are some details missing from this plan and in particular some exact..some more exact elevation ticks and this still says crushed rock parking lot, and this has not been to Site Review, Area Plan Commission's Monday morning Site Review yet, so what I'm asking for is because the runoff calculations do meet the requirements of the ordinance and the drawing substantially does, is preliminary approval for this drainage plan with the understanding that our office will be given discretionary power by your Board to grant approval of the final..or to administratively stamp approval of the final plan when it meets the rest of the requirements of the drainage ordinance for a small commercial project such as this. Why we're asking for this is because when Mr. Wedeking brings the plan to Site Review Committee on Monday morning, if everything is in order we can sign off on it and he could go down and get a building permit for the Knight Township Fire Department from the One Stop Building Permit Office.

President Jerrel: Is there anyone here that wishes to speak about the Knight Township Fire Station? Hearing none, I will entertain a motion for preliminary approval.

Commissioner Mourdock: I'll move preliminary approval, as recommended by the Surveyor's Office.

Commissioner Tuley: Second.

President Jerrel: So ordered.

President Jerrel: Okay, are we ready to go to number one?

Bill Jeffers: Three.

President Jerrel: Three? What were you saying?

Bill Jeffers: Um...it makes no difference at this point. Three may be a little quicker!

President Jerrel: Okay, are there seats that you guys can come in and take?

Commissioner Tuley: They can have mine!

President Jerrel: There's a few more over here. Come on inside and stand up. We're doing...you're next after this real quick one we're going to do here. There's a couple up front.

**Woodward Realty Project - Preliminary drainage plan**

Commissioner Tuley: Which one are we doing now? Three?

Bill Jeffers: I think I might have it up here, too.

Commissioner Tuley: I didn't bring my glasses.

Bill Jeffers: Okay, this is preliminary approval of what we're

calling Woodward Realty Project north of Burkhardt/Lynch Business Park. We are all familiar with the location of Burkhardt/Lynch Business Park. If you turn the drawing long ways so that the north arrow points to your left hand...

Commissioner Mourdock: Bill, looking at that, am I correct that the Lynch Road extension would run precisely down the center of that quarter section line?

Bill Jeffers: Yes, sir. Well, not precisely.

Commissioner Mourdock: Pretty darn close!

Commissioner Tuley: Pretty darn close.

Bill Jeffers: Pretty darn close. A little bit to the right of the quarter section line, but kind of...well, actually because it's going to be tuning fork shaped intersection, or cloverleaf, actually, the cloverleaf is way over here and then it comes down onto Lynch Road and Lynch Road is in this area here. Okay, so what this large 36 ½ acre parcel that you have a legal description of is the remaining area that's currently undeveloped by Mr. Woodward. As you know, there is a large area in here that will be, or we hope will be, a part of Lynch Road and its interchange with I-164. So we cannot present at this time a final drainage plan for that area. That will be designed by your consulting engineers at the time Lynch Road is designed to interchange with I-164. Then pretty much the rest of the area that's not going to be Lynch Road and the cloverleaf is right now, I believe, it's being sold to a landscape company and they're going to move their installations there and I believe that Combs.

Commissioner Tuley: You're right.

Bill Jeffers: Okay, and that will take up almost all the rest except for a little area down here behind some existing properties that the owner of those properties, and I think his name is Steven Kissel, if I'm wrong somebody back here will correct me, but there is about three properties here owned by Mr. Kissel and I believe what happened is he wanted a little buffer zone between himself and any future development and he worked that out with Mr. Woodward. What happened was after your Board granted approval of the final drainage plan for Burkhardt/Lynch Business Park, it came up that a Use Commitment had been made by the developer to provide a drainage plan for the entire property that he was dealing with. This was way back in front of Area Plan Commission when the remonstrators were concerned about a variety of problems including traffic, drainage, etc., and Mr. Woodward had made a commitment or the developer's corporation or whatever had made the commitment to provide a drainage plan for the entire area. Now they have done that for everything south of where Lynch Road will be. In its final form and that plat is going to be recorded tomorrow morning if you grant approval tonight of the preliminary for the rest of the acreage. The plan basically is that in simple terms the Vanderburgh County Commissioners, through their Engineering Department, will provide a set of road plans for Lynch Road and the interchange with I-164 that will meet your requirements,

that Mr. Combs will provide a final drainage plan for the part that he's developing before he can get a building permit to put his buildings up and that Mr. Kissel will provide a drainage plan for his property in that buffer zone adjacent to Mr. Combs' development. It's basically going to remain a flat lawn and I just want to see some positive drainage whereby he doesn't adversely affect Mr. Combs' project and Mr. Combs' project doesn't adversely affect him. Pretty much that plan... that's the plan in layman's terms and the developer has provided you with a drawing and the legal description of the boundaries of the land we're talking about and a statement that each and any entity private or public developed in any portion of the following described property shall require...shall be required to develop a drainage plan for their portion of the proposed development in accordance with the Vanderburgh County Drainage Ordinance and obtain approval of the plan by the County Drainage Board prior to commencing any construction.

Commissioner Mourdock: Okay, and just for the record, John Stoll just whispered in my ear that the plans you referred to that we need to have for the Lynch Road extension to tie to I-164 are complete, so we would not be tying the hands of any purchaser of that property further north. I mean, obviously, that area being as flat as it is one drainage plan affects another, so at least we have our part done.

Bill Jeffers: Okay, then all we're awaiting is Mr. Combs, and I think Mr. Combs' plan when it's presented to us I think I'm just going to make a requirement on him that he get together with Mr. Kissel and make sure that they don't adversely affect each other's drainage at that little corner.

Commissioner Tuley: I've had some conversation with Mr. Combs and apparently he's going to have a detention pond back there in the back some place that the water is going to drain to and then he's going to turn around repump that water back to water his plants and stuff with is what my understanding is.

Commissioner Mourdock: My concern was just we weren't going to put a developer at our mercy, have him have to develop something we didn't have plans for.

Commissioner Tuley: Right.

President Jerrel: All other information that we have received relating to this that our other exhibits are actually in favor of the Area Plan Commission, their dedicated land, so that doesn't enter in tonight.

Bill Jeffers: It's just kind of a technicality. There was this Use Commitment that was made and somehow our office didn't catch the fact that all this land required a drainage plan. We were so preoccupied with discussing the business part, but, obviously, anyone else using that land will have to have a plan anyway.

President Jerrel: Is there anyone that would like to speak to this preliminary approval? Seeing none, I'll entertain a

motion.

Commissioner Mourdock: I'll move preliminary approval then of the Woodward Realty project on north Burkhardt Road for the north 36 acre parcel.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bob Woodward: Thank you very much, Commissioners.

**Scott Crossing - Preliminary drainage plan**

Bill Jeffers: Okay, I guess the next thing is Scott Crossing.

Commissioner Tuley: That's almost what everybody else is here for.

Bill Jeffers: The preliminary plan for Scott Crossing has been reduced to a smaller area than had been previously proposed. This is out by Scott School on Old State Road. It was turned in a couple of weeks ago before the deadline and we had sent back a marked up copy with a lot of red lines on it for the developer to work on. He has...I mean, for the engineer representing the developer. This comes out of Morley & Associates' office. Most of what we were concerned about is that this is a subdivision that largely lies at the bottom of a ridge on the north side of that ridge that Old State Subdivision...I mean Old State travels along and that there was a long entrance road leading along side Scott... well, kind of along side the Scott School property, there is actually a private parcel between the two, and that the water running down this road would enter that subdivision. We were concerned about how they were going to take all this downhill flow through the natural watercourses. There's one here and one here and through the man-made waterway which this road will actually become because rainfall on the road, you know, it's going to run downhill into the subdivision. So the engineer drawing these plans took into account our concerns that we sent back to them and there's this little thing called "N1", it's just a notation, that shows some curb turnouts at the bottom of the hill before you get into the subdivision itself as you're coming down the hill from Old State Road. I've marked those in orange. Any water that's not picked up by the inlets along the way, we all know inlets don't pick up all the water, we want a depressed curb turnout that will draw that water off into the open ditches along the north...excuse me, along the south boundary of the subdivision and direct it into the surface and piped watercourse, waterways or drainage system and he's done that. I've marked all those places where emergency overflows will be in orange. I've marked the path that the water will take both above ground and through underground pipes. I've marked that in yellow. Then there's a notation, I believe it's called "N-2", I might have them backwards, but it's a...I've marked it green and those are like places where we thought that during extremely heavy storms like we've had in the past couple of years in the spring there might have to be some special attention because they're diverting water and trying to

carry it through this subdivision and down to the detention basin and so he's developed some details for earthen berm or diversion structures made out of earth and riprap to turn the water each place there may be a heavy rush of water during heavy spring storms. The other concern we had was that the part of waterways carrying the water down to the detention basin, which is marked in yellow, and it's along the north boundary of the property that the developer is developing, that a portion of those two main waterways that will carry that down to those basins was off-site of the subdivision primary plat. So that requires off-site easements. In other words, if this area is never developed into a subdivision north of this Phase One, if for some reason there's concerns about density or traffic and that area is not developed into a subdivision and remains farmland, there will have to be off-site easements so that whoever might farm that land would not close in those waterways thereby causing a problem getting the water down to the detention basin.

Commissioner Mourdock: Are those presently under the same title, Bill? That property to the north that those two blue easements that you..

Bill Jeffers: Right. Originally they were going to develop all that ground, but it was like, I don't know 80 or 90 or 100 lots. There was some concern about that many cars per day entering Old State Road through a single access point.

Commissioner Tuley: How many is now out there?

Bill Jeffers: Around 62 or 63 lots, I believe. What they did is that they took a precedent. There was another subdivision that they drew the line at 63 lots, Eagle Crossing. So what they did here is a...well, that's how it seems to go. Whatever we allow one subdivision to do the next subdivision is going to do the same thing. So they said, pow, a magic number is 63. They cut it off there and here's your drainage plan for 63 lots. The plan does meet substantially the requirements for a preliminary drainage plan under your ordinance and he did incorporate all of the items we addressed when we sent back the red line first plan. There will be a large area along the north line of the property that this developer intends to develop for placement of the detention basins and all the details shown on there conform to the requirements that we have in our ordinance for such things as ribbon liners in the bottom of the basin, pipe sizes, so forth and so on. The plat will have to contain language that the off-site easements are dedicated for the use of the drainage system and will be maintained by the property owners or the lot owners' association for the subdivision. They will be open grassy waterways, is what they'll be. I'm sure there are people here to speak to this subdivision and I guess--

President Jerrel: May I ask a question? Would it be helpful if we tacked this up here on the board so people could see if they speak about certain parts of it they'll be more familiar?

Bill Jeffers: Now that's a drainage plan. There may be a primary plat that's more clear. That has a lot of little bitty

details on it. We'll see how it goes.

President Jerrel: Would you want to...or perhaps the gentleman that...somebody needs to show everybody so they can kind of see the boundaries that we are talking about. Do you want to define the...

Bill Jeffers: I didn't bring an orange pen. That's my favorite color. This is Old State Road. Basically, this line represents the center line of Old State Road and then Scott School property is sitting over here, so Scott School is sitting right here, then I'm probably mispronouncing it, but it's the Rodelmans or Rodemans, they have a long strip right here. William Wortman's Subdivision, which is partially developed, is over here and then the proposed subdivision entrance road is it looks like about 344 feet west of the corner of Scott School's property. There will be an entrance road going due north into the subdivision with house lots all along the west line of that road. It looks like one, two, three...13 or 14 home lots along the west side of the entrance road, then the entrance road comes in and forks and goes to a cul-de-sac out here, turns and goes this way to the north and then there's another cul-de-sac here and the rest of those 63 lots which would be what...? About 40 of them are in this area up here. The boundaries of the subdivision are like that. This long entry strip and this rectangle right here. What the developer originally was going to develop came over to here and went north and then like this, which is probably another quarter of what, you know, another 25 percent or 30 percent of what he could of done is going to be left open.

Unidentified: Where is the retention basin that you talked about?

Bill Jeffers: Okay, the retention basin is a long narrow strip along the north line of the property that the developer acquired and it'll be staged down in steps. In other words, this is the lowest end and the discharge point is into an existing field ditch or field watercourse and then every so often to keep, you know, to keep the water from running down through there quickly to detain it it'll have like check dams. It'll have a step and it'll step up and there will be another dry basin and then a step up and another dry basin. The watercourses are in yellow. They go down through pipes and open ditches into these easements and down into the basin like that and the one along the west line of the subdivision also goes in there. The water is held in that basin by what we call an orifice or basically an undersized pipe. What maybe normally would take a 60 inch pipe to discharge full force may be choked down to a 24 inch pipe and the rest of the water would be stored back up in this basin and let out at a slower rate into that farm ditch theoretically the same way as it goes out at a certain rate now.

President Jerrel: Excuse me, would you want to come up and give your name? That way we can get our minutes, thank you.

Michael Smith: My name is Michael Smith. I live at live at 1151 East Baseline Road. The ditch it is going to discharge into, is that the ditch that runs on the westerly line of Wortman's land, between Habib and Wortman?

Bill Jeffers: I think it runs on the east line of Wortman's land. This is east this way and Wortman's land is over here to the west of this--

Unidentified: That's a different Wortman.

Bill Jeffers: Oh, a different Wortman? I'm not sure the property owners on up to Baseline Road.

Michael Smith: Well, because I'm not privileged to get any mail on this because I'm not an adjoining property owner, but what happens is..where you were pointing to that ditch--

Bill Jeffers: Right here?

Michael Smith: Yeah. Two lots over I'm on Baseline Road. My runoff now on my land is in a two inch rain extremely heavy. It runs down my land like a river, hits Baseline Road, fills up the ditch across the street and then come backs over and floods my land. The ditch between Wortman and Habib is defined on the FEMA map dated 1991 that's a designated flood zone, okay? That's a flood area. I'm...

Bill Jeffers: This whole area, right, all the way up this high, this area is in Zone A, floodplain zone--

Michael Smith: I'm in zone A, too. My concern is, I found out about this meeting by accident, so my concern is I have not had an opportunity to review the drainage plan and since I'm a novice the only thing I know is I receive a lot of water on my property. I think I would like to have the opportunity to have this rescheduled so I could get a hold of a plan, be able to consult with my land engineer to tell me just how much trouble I'm in. The water I get now is horrific. I've been in three flash floods since November 7, 1996. I'm getting corn stalks and everything else through my property. I'm getting my neighbors garbage and he's a nice guy believe me, aren't you, Jim? But I'm getting that on my property. I've had to dig my ditch out in front of my house which really doesn't help, but my runoff, I'm telling you, it's a..it's like a very strong current. My concern is if he adds any more water to what I have, I don't know what my property is going to do. I mean, I'm really concerned about that. I don't mind them building there. My neighbors may not agree with me, I think it's good to increase our value through other housing, but we're in a designated Class A flood zone now. Everybody...we're trying to sell the acreage that the water runs down and everybody say's no, I don't want to buy it because we've been on Baseline Road. Baseline Road, that's a foot to two feet of water when it covers up. It's a problem. We can't get into our house, we can't get out of our house, so our concern is since we're having runoff problems now, as I say, I don't have the expertise to say this is a good thing for me or a bad thing, but I'm deeply concerned about it. I'd like that opportunity to be able to go to a professional with that and to have them tell me what's going to happen to my property.

Commissioner Mourdock: Just to clarify something--

Michael Smith: Okay.

Commissioner Mourdock: What you just said is certainly very reasonable. There needs to be a time element, if you will, so everyone who is affected or feels they may be affected has a chance to do the things you just suggested and just to reiterate, this is a preliminary hearing for this and one reason it is preliminary is to allow people to have the chance to do the technical work.

Michael Smith: How do I have access to the map? In other words, how do I, as a citizen, get one?

Bill Jeffers: Well, what I would suggest is that our office is going to recommend approval of the preliminary plan tonight and if this Board, after hearing our recommendation and the comments from the neighbors, if they choose to approve the preliminary plan, I would estimate there would be a presentation of a primary plat of this project made to Area Plan Commission on the first Wednesday of August at which time they will not discuss drainage. They will only discuss all the other concerns such as traffic and density, so forth, and then approximately one month from tonight if the developer and his engineer are ready with the final plan they will be in here approximately 30 days from tonight with the final plan, so I would say if you would like to engage an engineer to look at those plans...they have to...they have to have those final plans submitted two full weeks before the hearing.

Commissioner Mourdock: The last Monday of each month is the Monday night that we have drainage.

Bill Jeffers: Right, so two Mondays prior to the last...not the last Monday, the fourth Monday, which is..sometimes there's five Mondays in a month.

Commissioner Mourdock: Yeah, you're right. Thank you.

Bill Jeffers: Fourth Monday of August.

Commissioner Mourdock: The 25th.

Bill Jeffers: The 25th of August there'll be...I'm saying there will most likely be a presentation of the final plan and what is the two weeks prior to?

Commissioner Mourdock: Two weeks prior is the 11th.

Bill Jeffers: By the 11th or 12th they should have a finished version of the final plan in our office. Area Planning Commission is on the 6th of August, so if they...what's going to happen is they go to Area Plan and if it gets approved by Area Plan they have from the 6th to about the 12th to come in with the final plan to the County Surveyor's Office.

Michael Smith: Are you with the Surveyor's Office?

Bill Jeffers: Yes, sir. I'm the Deputy Surveyor.

Michael Smith: Okay, well good.

Bill Jeffers: Then, well, but that's a different issue at this time.

Michael Smith: But no it's the same...same, okay--

Bill Jeffers: To fully answer your question, if you're going to engage an engineer he can come into our office at any time from 8 to 4:30, Monday through Friday, excluding holidays and look at this preliminary plan.

Michael Smith: Okay.

Bill Jeffers: Then on August 11th or 12th he can come in and look at the final plan.

Michael Smith: Well, I have one question. On the ditch that you're going to run this water into, okay, if that is on the flood map as a designated flood area and goes right down that ditch, does that in any way do you fellas maybe take that into account widening that ditch, deepening it? Do you fool with that ditch where this is going to run in to or is your only concern with the drainage within this development? I mean, do you care where the water goes?

Bill Jeffers: The fact that it's in Zone A Floodplain we take into account that there may be problems there.

Michael Smith: Okay.

Bill Jeffers: We examine those, but we don't maintain those ditches. They're on private property.

Michael Smith: Right, Right. How, if you--

Bill Jeffers: We don't have any plans to go in and improve those ditches.

Michael Smith: Right. Okay, so if we are now...those people on Baseline within that area, if we are now taking our maximum water capacity and are flooding in some deep water here and you're not going to clean this ditch or do anything with it and you approve this fella here and he for whatever reason puts more water into it, that really aren't you creating more of a problem for Baseline? I mean, maybe the water is going to get deeper? Do you see what I'm saying?

Bill Jeffers: Well, if all those things you said come to pass, yes.

Michael Smith: I have the pictures.

Bill Jeffers: But our ordinance requires that the discharge rate in cubic feet per second after the development what he's supposed to do is take a 25 year storm and reduce it down to the discharge rate of a 10 year storm. You mentioned that you have received severe flooding or--

Michael Smith: Right, on my property.

Bill Jeffers: --I don't know how you described it in, you know, exact words, but severe flooding several times since November of 1995.

Michael Smith: Well, I've only lived there since..I've only lived there since November the 7th or November the 1st, 1996.

Bill Jeffers: Okay, so you didn't catch that spring of 1996? You didn't see what happened then.

Michael Smith: No, I didn't get that one, but you see it's not... it's just not the depth of the water, it's the speed of the water going across my land.

Bill Jeffers: Right.

Michael Smith: I planted grass seed one day and it's gone the next.

Bill Jeffers: Right.

Unidentified: A two inch rain you won't get a fire truck down Baseline.

Bill Jeffers: A two inch rain exceeds the design storm, you know, in an hour.

Unidentified: Wayne Ellis told me he is going to have houses all the way around Old State Road if this gets approved. It's not 63 houses. This will get him started.

Bill Jeffers: Our ordinance here provides a method that's... methodology that you go through to determine what the flow rate for a 10 year storm is as farm...open farm field and then requires that you design drainage facilities and detention facilities to take a fully developed 25 year storm with all the streets and houses and hold it in this basin and discharge it at the lower rate of an agricultural 10 year storm.

Michael Smith: That's why you're stepping it down right?

Bill Jeffers: Well, that's why they're building the basin and putting a smaller--

Michael Smith: If this was an earthen...did I understand that it's an earthen-type of retention basin?

Bill Jeffers: Yes, sir.

Michael Smith: Okay, let me ask you a question just off the top of my head. If per chance this earthen structure would spring a leak or a big leak or whatever, what happens to us who are south of this project? I mean, what happens to my house? You see, those are some of our concerns.

Bill Jeffers: Oh, I understand your concerns.

Michael Smith: In other words, can the retention basin be beefed up with a little concrete?

Commissioner Mourdock: Question. The retention basin is that not strictly an incised basin?

Bill Jeffers: Well, it's incised. It has some earthwork that's going to be done along the side of it, but it's an incised basin. I mean, it's not like a 25 foot tall earthen dam that might break.

Michael Smith: Isn't the topography of the development here, you're building the detention basin here and I'm right here?

Bill Jeffers: Oh, yeah. The water will come your way from the retention basin.

Michael Smith: Oh, yeah. It's coming there now.

Bill Jeffers: That's the way it goes naturally and that's the way it'll go today.

Commissioner Mourdock: Yeah, that's right.

Bill Jeffers: That's the way it'll go next year.

Michael Smith: But when we use the word "natural ditch", going into a natural ditch--

Bill Jeffers: It's not a natural ditch. That's a man-made farm ditch.

Michael Smith: No, I know that, but it's going to go into a natural ditch.

Bill Jeffers: Where? All those ditches are man-made. Every one of the ditches that you are talking about is a man-made ditch.

Michael Smith: Okay, so the ditch I'm concerned about...see what happens in a rain when that water comes down now, it comes...here's Habib and here's Wortman and here's that ditch and that's what FEMA said is a flood zone right there. Right on top of that ditch and then it comes over into Wortman's property like a lake, okay? Well, what happens now is the ditch is almost...I mean, the dirt is almost up to the top, so when that water, now, in a two inch rain or a three inch rain runs down where the development isn't, but it's going to be--

Bill Jeffers: Uh-huh.

Michael Smith: --it hits that ditch, it sweeps across the back of Habib and then right down through between us. Okay? That isn't...we're not talking about deep water, we're talking about extremely fast water. That water was big enough to pick up things off of his property and move it on to my property.

Bill Jeffers: Right we had several storms in 1996. We had

three.

Michael Smith: Right.

Bill Jeffers: Already this year we've had a couple--

Michael Smith: Two, right.

Bill Jeffers: --that exceeded these design storms. One of them was a 300 year storm, June 9, 1996, and was equivalent to a storm that you would expect to happen only once every 300 years. Of course, it only happened 30 days after one that was a 100 year storm.

Several unidentified members of audience: Right.

Bill Jeffers: Okay, well, I don't have control over that, nor do you, nor anyone in this room.

Michael Smith: Right.

Bill Jeffers: All we have control over is what we can expect to happen and try to make plans to deal with that.

Michael Smith: Okay, with your expertise let's say that we--

Bill Jeffers: But FEMA doesn't have plans for anything that exceeds a 100 year storm.

Michael Smith: That's unfortunate. They sell insurance, huh?

Bill Jeffers: Well, pardon me, but they don't have any plan...they don't require any planning for anything that exceeds a 100 year storm, so what happened on June 9, 1996 FEMA has no requirement whatsoever, and they are the federal government which is the ultimate governing body--

Michael Smith: Right.

Bill Jeffers: --on this type of thing. Whatever happened on June 9, 1996 on the north side of Evansville would not have required any planning on their part.

Michael Smith: One last question. On the retention basin, let's say that the water comes down at such a rate that it overfills the detention...huh, the retention basin. Is that possible? In other words---

Bill Jeffers: During an extremely heavy storm like we had June 9, 1996 yes, it will overflow the detention basin.

Michael Smith: In your expert opinion, what will that do to me at the bottom of this thing?

Bill Jeffers: All the water flowing through there will flow down that farm ditch and go across Old State Road approximately the same as it did June 9, 1996.

Unidentified from audience: Baseline Road.

Bill Jeffers: Baseline Road, excuse me, Baseline.

Michael Smith: But there will be more volume of water if it overflows that retention basin, is that correct? Versus a regular rain? See, I'm going to get runoff no matter which way I look at it. That doesn't bother me.

Bill Jeffers: I'm not sure you can measure it in exact terms, but if the ground is totally saturated as it was on June 9, 1996 and you have that type of storm, pretty much all the water that hits the ground it's going to cross Baseline Road just like it did in 1996.

Commissioner Mourdock: Whether that retention basin is ever built?

Bill Jeffers: Whether that retention basin is there or not.

Commissioner Mourdock: Whether the subdivision is ever built.

Michael Smith: You understand when it hits Baseline Road, when it comes off my property and shoots across Baseline road, hits the ditch on the north side, the ditch fills up just like that, then it comes right back to me and --

Bill Jeffers: I understand very well. I've worked for the county since 1981 and I've seen that road flood many, many times.

Michael Smith : Okay. So when we're drawing these drainage plans up where the developer is, we're taking that into account? Is that correct?

Bill Jeffers: Only up to a 25 year storm.

Michael Smith: But what I'm saying is we're taking the account of what's happening on Baseline Road now when we're drawing the plans up for the development up here, right?

Bill Jeffers: The only respect in which we're taking that into account is we're attempting to reduce what is known as a 25 year storm, so many inches per hour on the charts in here, and discharging it at a slower rate. That's what we're taking into account.

Michael Smith: Okay.

Bill Jeffers: That we are attempting to reduce the cubic feet per second of water that travels towards your property after this is developed during the designed storm. There's nothing we can do when all the ground is saturated after 30 days of continuous rainfall and then we have a big torrential rainfall? There is nothing anyone can do. All the ground in the watershed will be acting as if it were concrete whether it has a house on it or not because it's totally saturated. It's just like as if the water is landing on the surface of the ocean. Every drop that lands will run across that road.

Michael Smith: I think something--

Bill Jeffers: There is nothing we can do. I mean, what we have a problem with is that everyone brings us the worse case scenario.

Michael Smith: Right.

Bill Jeffers: The worse case scenario cannot be fixed ever. All we can do is make plans for these normal annual rainfalls we have. We can't make plans for these abnormally heavy rainfalls that occur.

Michael Smith: Your point on having the ground saturated and the water hitting it and running it off, I agree with you, but is it not, if we're going to put concrete roads up here and we're going to put roofs up here, you see, that's why you're building the retention basin?

Bill Jeffers: That's correct.

Michael Smith: Because the absorption of water--

Bill Jeffers: Because we know the absorption rate will be lower.

Michael Smith: Right, but still I would...in your expert opinion then, if we did that with a retention basin isn't that still going to increase the volume of water even though you're letting it out gradually down into this natural ditch? Isn't that still going to increase the water volume a little bit?

Bill Jeffers: Are you talking about the total volume?

Michael Smith: Yeah, the total volume.

Bill Jeffers: Yes. It'll be stretched out over a longer period of time at a lower...it'll travel at a lower rate--

Michael Smith: Right.

Bill Jeffers: --in cubic feet per second--

Michael Smith: Right.

Bill Jeffers: --for a longer period of time.

Michael Smith: Right, but as opposed to the rain that I got today, let's say, say if I got about a three inch rain today with this development in place, okay, and we get a three inch rain, am I not going to get more volume even with the retention in there...even with a retention basin? Isn't that going to fill up a little bit faster? Do you see what I'm saying? Isn't that volume of water gathering in the retention basin going to be there?

Bill Jeffers: You will, during the design storm, you will get less cubic feet per second than you get now.

Michael Smith: Coming down on me? I mean, the volume of water

coming down on me?

Bill Jeffers: Right, but it may run at that volume for a longer period of time or it will...it will run--

Michael Smith: Alright, my last comment is--

Bill Jeffers: --for a longer period of time.

Michael Smith: My last comment is that, and I'm not trying to be facetious, but the ditch we have down here now between Habib and Wortman is supposed to carry the water is...it's a nothing, okay? That's why we're getting all the water on our land. That's why he got the water twice in his house this year.

Commissioner Mourdock: Is that because of the condition of the ditch?

Michael Smith: Yes, sir, that's part of it.

Commissioner Mourdock: Is that a legal drain?

Bill Jeffers: No, it's not.

Commissioner Mourdock: So it's on a piece of private property?

Michael Smith: Well, that's true and also you see it--

Bill Jeffers: Was it there when you purchased your property?

Michael Smith: Well, see I have a little problem there. I...the bank said I was not in a flood zone when I bought the property. I just found out Wednesday I'm in a flood zone, okay, legally. But what I'm saying is...my question was when I went to your office and talked to the fellow there, who was a very knowledgeable guy, my concern was Lateral A, okay, off of Korff Road, was that carrying the water? Before it gets to Lateral A, the problem is that right now it's coming down and when it tries to get into that ditch it's not making it. It's just sweeping across the back of Habib's property and then it goes down between both of our properties. When I say it sweeps down, this is not a gentle falling rain. This is, you know, a torrent coming down here. So that's...I'm deeply concerned and I'm not trying to harm this guy, but I'm deeply concerned as to where I'm at. You see?

Bill Jeffers: Uh-huh.

Michael Smith: Now if they want to buy my property and run a 400 foot ditch there that doesn't bother me, but as long as I've got to live there, then I'm concerned.

Bill Jeffers: There are, like you said, you may engage a private engineer.

Michael Smith: Only to understand where I'm at, you know.

Bill Jeffers: Well, you may ask him what you can do to your

private property to improve your chances against flooding that would happen whether or not this project is completed.

Michael Smith: My flooding--

Bill Jeffers: He may advise you what you should do knowing now that your in Zone A, what your choices are.

Michael Smith: The back of my property is the torrent coming down the hill--

Bill Jeffers: Uh-huh.

Michael Smith: --and then once it gets down the hill onto Baseline Road, then it comes back. It sweeps back up toward my house.

Bill Jeffers: Because it can't get through the waterway opening--

Michael Smith: Well, the ditch--

Bill Jeffers: --under Baseline Road.

Michael Smith: The ditch can't carry that volume of water.

Bill Jeffers: Right.

Michael Smith: Then it can't get to Lateral A. I mean, when the rain stops in 45 minutes it's as dry as a bone. It's just that initial shock of water coming down.

Bill Jeffers: Right. That means that the drainage facilities are probably either undersized or partially obstructed.

Michael Smith: If I built something across the back of my property and diverted the water to the ditch, you know if Habib and I got together and we had the million dollars to divert that water to that ditch, and then it hit that ditch the back of our properties would probably be dry. The problem is, now it hits Baseline Road, hits the north ditch and now it's coming back up on both of us again.

Bill Jeffers: If the county were to enlarge the opening under Baseline Road so it all went under and got away from you, the people downstream from you would be up here hollering at them about opening that up.

Michael Smith: Well, I appreciate that.

President Jerrel: Could I ask a question? Just a minute, if I may interrupt both of you. Mr. Morley, would you come up here and define geographically so everyone can see the ditches that are the property owner's are yellow on his drawing and the county responsibility, the one's that we're charged with maintaining, you know...I mean, I think sometimes people really don't know that the ditch is their responsibility. I think that's a real misunderstanding, so if he could get you kind of focused.

Jim Morley: Sure. What I have here is the county topographic map in the area. To orient you this is you, this is Boyle Lane over next to Highway 41. The County Drainage Board has jurisdiction and collects fees for the maintenance of Pond Flat Lateral A. Pond Flat Lateral A comes under Highway 41 under the bridge on Boyle Lane, turns south to a point about a quarter of a mile north of Baseline Road. At that point their maintenance responsibilities stop. That's the end of the county legal drain, then there is...then the drain continues to the east, runs behind that little subdivision Valley Court, comes over to Korff Road. At Korff Road there's a 66...relatively new 66 inch aluminum pipe that the county recently reinstalled...or installed there, put a new one in. At that point the ditch runs south along the east side of Korff Road. It also continues on to the east and picks up other lands too, that's where the major part of the flow comes from. It comes down to Korff Road...down the east side of Korff to the north side of Baseline. It runs along the north side of Baseline to a point right here and crosses under Baseline in a 30 inch pipe at that point and then runs through a rather small flat ditch up here past a pond on this property and I don't know--

Michael Smith: Can you identify that? That would be--

Jim Morley: Someone at...is that your property? Yeah, okay. I don't know the property owner's names along there, but it runs along that and then as it gets towards the rear of your property the ditch starts to show up again. Across the flat ground it's almost nonexistent. It has been dug out. It's only about two feet deep and pretty well filled. It's grass and it's been silted in pretty badly and so it does some overflowing. At this point, you start to pick up some slope and the ditch is eroded and then as it comes across this property it's about four feet deep along the rear of this property.

Michael Smith: How do we define that ditch? Do we define that ditch as a ditch owned by two individuals, Mr. Habib and Mr. Wortman? If that's defined as a private ditch between Mr. Wortman and Habib, then how does the developer get the opportunity to run water on this fella's private land?

Jim Morley: I think what you have here is, by the definition, a mutual drain. A mutual drain is something that is out there that drains two people. It's not a regulated drain, but it is a mutual drain.

Michael Smith: It drains Mr. Habib and Mr. Wortman?

Jim Morley: Well, I think perhaps your talking about something over this, you know--

Michael Smith: No.

Unidentified from audience: He has got the right ditch.

Michael Smith: That's the ditch, I know the ditch, okay?

Jim Morley: Okay. I'm not sure the property owner's names then.

Michael Smith: I know the ditch.

Jim Morley: Okay.

Michael Smith: What we're saying here is--

Jim Morley: Yes.

Michael Smith: --in other words, in reading the 25 pages that the Surveyor' Office gave me the other day, what they're saying is they call it a legal drain. They can't go on the property to clean Lateral A from Korff Road because it's on private property, so we can't go on that property to clean that ditch. Then we're saying tonight, I guess, that the ditch between Mr. Wortman and Mr. Habib is a private ditch, which two landowners who own this ditch. Now if they...if I own private property and somebody comes on it and burns my house down, they do something to them. Here what you're saying is you have another big landowner behind these two fellas who is going to build a huge bathtub, we call it a retention basin, he's going to run water down their private ditch. Are they paying these fellas to run water down their ditch? If not, how can somebody run water on your property without your permission? That's the question.

Jim Morley: I prefer to answer engineering questions. You know, you've strayed now into an area of law and I'm not a lawyer.

Michael Smith: Okay. Well that's a--

President Jerrel: Well, what about...is there someone else that wishes to make a presentation? Yeah, I think that we need to share the time.

Patrick Kelly: Thank you very much. My name is Patrick Kelly and I live at 15144 Old State Road. I'm not one of the houses going to be immediately affected by the drainage issue, but what I would like now is for everyone here who lives on Baseline Road, could you raise your hand for us? Everyone who lives on Peck? Keep your hands raised. Everyone who lives on any other road that sees the water problem. We as a collective--

Commissioner Mourdock: Wait a minute, that last question, I didn't see any hands. I just want to be sure.

Patrick Kelly: Here is what I mean by--

Commissioner Mourdock: Wait a minute, again, excuse me, Mr. Kelly, one second. I want to clarify it because he asked the question quite correctly as far as who lived where and who was affected by different things. When you asked the question who is affected by the water, I saw just a couple hands go up. So that was the question. It wasn't who's affected overall, it was who's affected by this drainage plan.

President Jerrel: Yeah.

Commissioner Mourdock: Okay, thank you.

Patrick Kelly: We, as a collective, with me being the person

being a spokesman because I'm the youngest and they all forced me into it--

Commissioner Mourdock: You missed the meeting, right?

Patrick Kelly: Right, exactly, so I was elected. We would ask that you reject this preliminary plan based on the fact that we don't see an adequate plan to address the drainage issue. What we would like to clarify is that it is our assumption that the Drainage Board is not only in place to help and approve a developer's plans, but a Drainage Board is also in place to help existing landowners. In that vein, I have some pictures here that we had exploded to show you just how bad the problem is on Baseline Road when it rains. Those pictures there you could probably rent a Kayak pretty good and would be more useful than a car going down that road. The other thing that is frightening to us is that when that road does become flooded, if it's one of those days where it's raining and 34 degrees and all of the sudden it turns down to 28 degrees, instead of our two inches of water we have two inches of ice. We have the same concern with the entrance to the Scott edition, In addition to that and in closing of my remarks, we all know sitting here that the plan presented on the board is not going to be the final plan. We know that there are going to be the rest of the houses built in that area and it doesn't take much to understand that when houses are built in a area where soil is now there is going to be more runoff and it's going to go right down into my neighbor's yards. We would hope that the Drainage Board takes that into account and rejects this preliminary plan. One of our neighbors has an attorney who would like to address you for just a couple of minutes. His name is Mr. Faulkner.

President Jerrel: Thank you. Could we change the tape?

Rob Faulkner: Sure.

**Tape change**

Rob Faulkner: My name is Rob Faulkner. As Mr. Kelly indicated, I represent owners out here. I'll use that in plural because I actually we represent a large group of owners. Approximately 27 of them are here today and I'm not here debate Mr. Jeffers because he's the drainage expert. I don't question that the plan as submitted for what it shows meets the minimum requirements for preliminary approval. However, we think that the concerns that were raised here warrant the developer being required to show us more information in the form of a final plan and one thing I would add in that vein is that we know that the remaining area around the perimeter of the sub is not going to remain undeveloped. In fact, if you look at the design of the sub I think you'll see that it actually lends itself to being expanded if you'll see the cul-de-sac that goes out here in the undeveloped area. So we don't believe that the plan adequately addresses the remaining area that in all probability some day is going to be developed. We're not really talking about...we know this Board can't guarantee that there's not going to be a problem given the very seldom catastrophic rainfall, but we do want to make sure that when the more frequent storms of less

intensity that it does meet the purpose of the Drainage Ordinance so that the adjoining properties and the affected properties downstream are protected. We would ask that this Board, if it would not be inclined to reject the plan, that at least it not move forward until more information in the form of a final plan is submitted.

President Jerrel: May I...would you want to review, Joe, the procedure so that...I don't...you're asking us to go ahead, but give more time so you could observe the final plan. The---

Several unidentified members of audience: No.

Rob Faulkner: Well, we would ask--

President Jerrel: That's what he...I was wondering if he was--

Rob Faulkner: --if this Board is not inclined to reject it, then at least the Board not move forward on preliminary approval until more information is provided.

President Jerrel: That was not what you were saying. I was wanting to make sure.

Rob Faulkner: I'm sorry I didn't make that clear, I apologize. Thank you.

President Jerrel: Uh-huh, thank you. Is there someone else that would like to speak?

President Jerrel: Yes.

Baldy Darnay: I'm Baldy Darnay. I work a lot with drainage and I'm in the mining industry.

President Jerrel: Did you get his name?

Baldy Darnay: Baldy, B-a-l-d-y, like no hair and Darnay, D-a-r-n-a-y.

President Jerrel: Your address?

Baldy Darnay: 1414 North Pointe Court. What disturbed me a little bit about this is the fact that about a year in a half ago it took me six to nine months to have my septic system approved, okay? This is a whole lot more complex and this is being railroaded through...through the idea of this being a preliminary plan, okay, without getting all the people involved in this and the opportunity to look at the preliminary plans. See, by the time this thing goes down the road, it's past preliminary, preliminary approval has been gotten. Now we're down to the final thing and now we're being squeezed on time. This is a game of time. These people are asking for time to review the preliminary plans. Not in terms of little yellow sketches and orange markers and green markers, but something that's solid with calculations attached that somebody else who is in the business can look at and evaluate whether it will handle the water problems. So I think in terms of a septic system takes six months, and this is being railroaded through in

no time at all. I don't think it makes any logical sense at all. The other question I have, is any of this in the construction...floodway construction permit? In other words, through the Corps of Engineers?

Bill Jeffers: No.

Baldy Darnay: No. It's above that, correct?

Bill Jeffers: It doesn't drain one square mile or greater.

Baldy Darnay: Okay, thank you.

Bill Jeffers: Is there someone else that would like to speak?

Commissioner Mourdock: Let me just clarify Baldy's point there at the end, about the Army Corp permit, because that is an interesting question. It isn't a mile square or greater, Bill, if they were filling in anything in the drainage way they would need to have the permit though regardless of what the size of the area was, correct?

Bill Jeffers: Army Corps of Engineers doesn't even enter into the picture ever, except below U.S. 41 on Pigeon Creek. We're talking about the Department of Natural Resources has determined that a floodway exists on any stream at the point at which that stream drains one square mile or more from that point downstream.

Commissioner Mourdock: Under what you and Mr. Smith earlier said, was the FEMA category, Category A, is that a 100 year event or 25 year event?

Bill Jeffers: Zone A shows the area that can be expected to be inundated during a 100 year event.

President Jerrel: Can someone take their hand and just show how big is that Zone A?

Commissioner Mourdock: It follows the drainage way. There we go.

President Jerrel: Okay, the shaded area?

Commissioner Mourdock: The Corps is not involved with anything in Zone A even if it were filling in in that area?

Bill Jeffers: The Corps will sometimes send out their survey crews to help the Department of Natural Resources determine the exact height of flooding during a 100 hundred year event, such as they have on Little Pigeon Creek and Locust Creek in our county.

Commissioner Mourdock: But an individual--

Bill Jeffers: And as a matter of fact, Pond Flat Main. They came up to U.S. 41 and I think they went up to Korff Road on Pond Flat Main.

Commissioner Mourdock: Neither an individual or a nationwide permit, 404 permit, has been requested by the Corps in those areas in the past, to your knowledge, in the Type A's? Or Zone A's or whatever you call them?

Bill Jeffers: Not just because it was in Zone A, no. Only where a designated floodway exists does the Department of Natural Resources require a permit to conduct any construction within a floodway.

Commissioner Mourdock: Okay.

Bill Jeffers: Not the floodplain, but the floodway.

Commissioner Mourdock: Right, okay.

Bill Jeffers: If we are going to prohibit construction of residential and commercial buildings in floodplains, we can just shut down shop right now in Vanderburgh County. I don't believe, and I am not aware of any special permit required from any one state or national agency just because it's in Zone A. There have been thousands of homes built in Zone A floodplain in Vanderburgh County. In the last 10 or 15 years probably 10,000 or 15,000 houses, I don't know whatever. They're required to have federal flood insurance and they're required to construct the first finished floor elevation two feet above the designated height of flooding in Zone A. So in other words, if it's 400 feet above sea level...if Zone A is above 400 feet above sea level in this subdivision, then the first finished floor has to be 402. I don't know the exact figure, I'm just--

Commissioner Mourdock: Yeah, and that would be in the floodway?

Bill Jeffers: In the flood zone, Zone A. Nothing can be built in the floodway except bridges. I mean, you know you have to have a special permit to do any construction of any kind in a floodway. A floodway is the distance on either side of the top of the bank of a stream that would be expected to be required left clear to pass moving water during a 100 year event. The moving stream of water.

Commissioner Mourdock: Okay.

Bill Jeffers: Outside that, the floodplain is what you might think of as backwater not moving headwater.

Commissioner Mourdock: Bear with me for another minute, Bill, just to be sure I understand this. Anything that is Zone A would require building-wise that two foot difference you just described. Is that correct?

Bill Jeffers: Everything...any dwelling or commercial, whatever--

Commissioner Mourdock: Right.

Bill Jeffers: --any building--

Commissioner Mourdock: In Zone A.

Bill Jeffers: --that has a roof and sides and a floor, even barns now, built in Zone A, which is the area that may be expected to be inundated during a 100 year event, must have what they now call a flood protection grade established by the Building Commissioner's Office. That flood protection grade is the elevation of the finished floor, the first finished floor whether it's a basement, garage floor or barn floor, and that flood protection grade must be set by the Building Commissioner at two feet higher than the floodplain elevation for that spot of land.

Commissioner Mourdock: Who tells the Building Commissioner it must be set at two feet above?

Bill Jeffers: The State of Indiana. I think it's IDEM, the Indiana Department of Environmental. Or is it FEMA? FEMA, the Federal Emergency Management Agency. They have those floodplain maps. I think the latest one is like 1991 or 1992.

Commissioner Mourdock: And then--

Bill Jeffers: The Building Commissioner looks on that map and determines what Zone A is. I mean, there may be a building lot in this subdivision where this house is going to be built at 402 and three lots up there's going to be a house built at 403. It might, you know, it could change that quickly.

Commissioner Mourdock: After those structures are put in FEMA requires people to go back in and petition to alter the maps, correct?

Bill Jeffers: You can get a letter of map or a...what's a LOMA? Letter of Map Amendment. Yeah, if you can hire a registered land surveyor to come out and through an extensive detailed study prove that Zone A is not as extensive as the computer plotted it to be, because all those are computer plotted blue lines on a map from a computer program that has determined how high the water might get during a 100 year event. Then the Corps of Engineers...you know, so, the Corps of Engineers has gone out and gone up these channels and done detailed studies of the width of the channel, depth of the channel, this, that and the other. They have said okay...for example Petersburg Place when it was built, Old Pete Place was in Zone A. Then the Army Corps of Engineers did a study of Little Pigeon Creek and when they were finished they said Zone A didn't extend that far out into the flat areas on either side of the bank. They said it would only get to a certain elevation during a 100 year event, and last year when it rained and we had a 100 year event it got within three inches of what the Corps of Engineers said it would get when it went over the top of...I've said this many times, I was totally amazed by it, it went over the top of Mt. Pleasant Road just west of 41 and we shot the elevation of the water as it went across the road. The highest point the water ever got and it was within three inches of what the Corps of Engineers said it would be after crunching their numbers through and they have reduced the size of a lot of Zone A in Vanderburgh County by doing the detailed study. Now if a private individual or landowner wants to shrink, hopefully shrink, the extent of Zone

A on a piece of development ground, he can hire a registered land surveyor and do a detailed study and send that study to FEMA and if they agree with the numbers they can be exempted or it may remain the same. However, until they do that the local floodplain management ordinance requires that the Building Commissioner assign finished floor elevations for all dwellings in Vanderburgh County within Zone A.

President Jerrel: Is there anyone else that wishes to speak to this? We have two more people.

Greg Hill: I'm Greg Hill. I live at 1045 East Baseline Road. I bought it last October. Some of the pictures you looked at are in front my house and the drive.

President Jerrel: Uh-huh.

Greg Hill: It's under 18 inches of water. You know, we're addressing Baseline Road, but we've got another subdivision that was put in next to this one. Peck Road does flood. It has as much as six or eight inches of water. They're getting ready to build a fire station up the road, I'm going to be able to see, but people are not going to be able to get through because Baseline Road floods a 1000 yards down through there. It's just not a small area. You're not going to be able to get the people to the fire station unless they've got to drive 41, Old State Road back to the fire station and come back to my house. We have elderly people that live next me on both sides all around us. They've got heart conditions and stuff. The Fire Department is not going to be able to get through this. You know, he's saying exceptional. I've seen it five times since October being over Baseline Road where you couldn't get through. Peck Road two or three times. You can look at this, that's a ditch that's existing now. I don't care how deep you dig it, when it's saturated you're going to put more water because there's more area covered in the subdivision that's going to run off. It's got to run downhill faster. My house right now, if you raise it on Baseline Road six inches to a foot it's going to run across my basement floor and down my steps into my basement. You know, he's giving us this exceptional thing, but we're close now. I mean, there's no guarantee that it's not going to run off. Yeah, you know, I'm taking a chance now when it comes up with nothing there, but you're covering a big area that's going to get bigger and your going to put it down there on us. They're saying it has got to be cleaned out. That's not going to help. I mean, there's no way for the water to get away when you're coming down that hill as fast as it is. You're looking at a flat drawing. There is no elevations, as far as I've heard, how far it is from Old State Road down to Baseline Road. How much of that water is going to, you know, speed down through and go through that retention pond they've got? So they're going to slow it down. When it's full it's full. I've got a three-quarter acre pond. When it fills up after a rain it's gotta go somewhere, it goes over the top and that is what is going to happen to us down there and we can't take the water that's going to come over the top to stack up on Baseline Road. This guy that was up here saying...talking about the ditch, he bought his house and he's encircled by it. People are trapped. Once you're in your house, you're there. People are in four and five

feet deep they can't get out until it goes down. He's talking about it releasing slower, so now we're talking about dumping this water in there slower after it's already come up and you're going hold the water level up higher for a longer period of time. Thank you.

Commissioner Mourdock: General question to that, though, if I may? Something you just said at the end about holding the water up there higher, longer, that's not exactly how you said it, but it was something to that effect. Is the water that is backing up now generally backing up behind the roads? Mr. Morley talked about the 30 inch pipe--

Greg Hill: It's hitting that big ditch he was talking about and it's backing up across Korff.

Commissioner Mourdock: Wait a minute, is it backing up because the ditch isn't moving the water or is it backing up behind the road because the pipe going under the road isn't large enough?

Several from audience: Both.

Greg Hill: He's talking about that 66 inch culvert. It can't take it fast enough. There's that much water into there.

President Jerrel: There is one more gentleman that wanted to speak.

Bill Jeffers: Well--

President Jerrel: No, wait. The gentleman in the blue shirt.

Unidentified: I'm taking all the water from--

President Jerrel: Do you want to come over here and give us your name so we can have it? You've been waiting to...

Unidentified: I live on Peck Road.

President Jerrel: Your name?

Jack McDevitt: It's Jack McDevitt. If they're doing the...going to use the same mathematical calculations for their holding ponds as they used for Old State Court, it don't work, because my culvert's already washed out three times.

Bill Jeffers: Where is Old State Court located?

Jack McDevitt: It's right down away from this subdivision, proposed subdivision, right here.

Unidentified: Right down from where we are talking about. It's only about 20 homes.

Unidentified: There is nine homes. There's nine.

Bill Jeffers: Are you talking about Wortman Subdivision?

Jack McDevitt: Right.

Bill Jeffers: The brand new one?

Jack McDevitt: Right, if you use the same calculations for that for this it won't work because my culvert, like I say, it's been in there since 1968. Since 1990...what? Six? It's washed out three times.

Bill Jeffers: Since Wortman's Court...since Wortman's Subdivision has been built?

Jack McDevitt: Right.

Bill Jeffers: Before or after?

Jack McDevitt: After.

Bill Jeffers: It was only built three or four years ago.

Jack McDevitt: Which was 1996!

(Inaudible conversations from audience.)

Bill Jeffers: In April of '96. That is what we're talking about. These torrential three and four inch rainfalls.

Jack McDevitt: You're saying...we've never had--

Unidentified: Before that time the field has always handled it. Since there has been housing it has not been handling it. Stop and listen to his dates. He's saying if nine houses have overwhelmed the tract now, what will 53 do more? Use common sense.

Jack McDevitt: Your calculations won't work.

Unidentified: Your calculations won't work.

Jack McDevitt: You can't tell me since 1968 we haven't had four inch rains.

Bill Jeffers: What happened in 1982 and '83?

Jack McDevitt: Nothing.

Bill Jeffers: Oh, *please!*

Jack McDevitt: Not to my driveway! Not to my driveway!

Bill Jeffers: Highway 41 flooded in 1983.

Jack McDevitt: My driveway didn't wash out. Your calculations are zilch, because they don't work.

Unidentified: Will you take legal responsibility if something happens?

Jack McDevitt: No, they won't because I've been fighting

everybody in the city. Nope. They'll say, oh, yeah, you've got a problem, but they will not do anything. Absolutely nothing.

Unidentified: Talk is cheap. Let's get...put your name behind it.

Bill Jeffers: No.

Jack McDevitt: Come on, I've had Higgins. I've had the County Surveyor, I've had the..the--

Bill Jeffers: Hey, in 1982 and 1983 the whole Pond Flat system was so overcome it looked like the Mediterranean Ocean out there. The water crossed U.S. 41 which was built by the state.

Jack McDevitt: But it did not--

Bill Jeffers: True or false?

Jack McDevitt: But it did not wash my culvert out. We're talking about--

Bill Jeffers: Time--

Jack McDevitt: But we're talking about--

Bill Jeffers: Time, time, time takes its toll.

President Jerrel: Okay, alright.

Bill Jeffers: Time takes its toll on anything.

Jack McDevitt: What are you saying?

Bill Jeffers: Well, that your culvert may need some attention.

(Several inaudible conversations from audience.)

Bill Jeffers: I don't think due to three or four houses. We have turned...we have taken...we, in the 80's, took bridges that had 36 to 55 foot bridge openings all the way down Pond Flat, we widened pond flat...I mean, I'm not going to stand here and let anybody say the Surveyor's Office did not work on Peck Road because we did. We replaced culverts on Peck Road.

Jack McDevitt: When?

Bill Jeffers: Well, I'll get the records out. In the '80's and we worked down there where Becky Bunner used to live on down through there. We ditched all that out and put new culverts in.

Jack McDevitt: How come you went around Becky Bunner's?

Bill Jeffers: I don't know why we did that.

Jack McDevitt: You've got to come over top of Becky Bunner's. There's no ditch over there. It goes across and around that--

Bill Jeffers: We took a bridge that was 54 feet wide and widened it to an 80 foot bridge. We widened all those ditches down through there and they still can't handle these waters from these torrential downpours.

President Jerrel: Well, let's...do you have a comment to make about this? Something new that we haven't covered before.

Unidentified: I have been trying--

President Jerrel: Do you want to give your name?

Connie McDevitt: I'm Connie McDevitt, I'm his wife. I've been trying for two months. I called Soil Conservation out. He's says you're draining over 100 acres in that one side of the ditch, on the east side of the ditch. He says you need a bigger culvert. I said tell me how big I need. I called him today. I have not heard anything. I can't fix and size a culvert if I don't know what size it is. We're constantly fighting water down there. When I have to pray to get in and out to go to work or call my friend at 5:00 in the morning don't pick me up my culvert held, we got a problem here. I'm tired of it and it's going get worse because more development is coming out. It's inevitable.

President Jerrel: Did you want--

Unidentified: Yeah, I've got a question. How big is your culvert now?

Jack McDevitt: It's about 36 to 48 inches, because I own the property that's adjacent. It travels across the back of my property. I mean, it's a 48 inch culvert. They're trying to drain it through a 66...like she says, 100 acres drain into that. It's not going to take it. I don't care how big the culvert you put in.

President Jerrel: Okay, we'll have one more and then we'll end the discussion. Yes, I saw your hand.

Jack Jones: Thank you. I can't see you from back there, so I wanted to see what you looked like. My name is Jack Jones. I live at the corner of Korff and Baseline. I am probably the person that most gets flooded when it rains. I have lived there for 20 years, since 1977. When I moved in I was told that, oh, no, don't worry about this. This never floods. The day I moved in, which was on a Saturday, it flooded. It washed away my backyard. I gauge rains by how much water I receive. A one inch rain floods the ditches. A two inch rain floods the roads. A three inch rain floods my yard. I have had water in my garage on two occasions. My house is not very high, but there is...the drainage finally goes away. I mean, the water will finally go away. On two occasions. It might have been the 1982 situation that he was discussing earlier, it got into my garage and in this last large rain that we had it got six inches into my garage.

Unidentified from audience: The day of the tornado.

Jack Jones: The day of the tornado, whatever day that was. I don't know what a 100 year rain is. I don't know what a 25 year rain is or whatever it is. All I am telling you is that Baseline Road floods now. We have a summer rain out here. We'll have an inch of rain. The ditches will be full. If we have all that water coming down upon us from this subdivision, we will have a one-half inch rain and the roads will flood. Thank you.

President Jerrel: Thank you. Alright, I think...did you have a comment to make? Alright, Mr. Morley.

Jim Morley: As you've heard tonight here there are problems with flooding out on Baseline Road. Scott Crossing Subdivision did not cause those problems. Scott Crossing Subdivision, what we have done and Bill didn't cover all of the details that was presented to him, but your ordinance requires that we hold all of the flow from the 25 year storm and release it at no more than a 10 year storm. In fact, our drainage plan, as presented to them, exceeds to 100 year storm not the 25, but the 100 in storage. So we are going far beyond and as we often do on our developments to the greatest extent possible. The question was raised earlier about the preliminary drainage plan and isn't this going to be some more? There is 35 acres in this site and Area Plan Commission has asked us to limit this development to 20 of those 35 acres. There would be 15 more acres. A drainage plan would be presented. We would have another hearing every time any new development comes out there. I can't...the gentleman who was just up here and spoke about Peck Road, that's in another basin that goes off to the west of where this one drains. There are other pipe sizes and as I checked the pipe sizes of these pipes I didn't go check that basin because it does go off into another. Maybe there are problems around here. Sometimes it is difficult for government, through Bill or the Soil Conservation Service, to provide professional services of sizing people's driveway culverts. There are engineers available, several in this town, who can do those computations and give that information rather than relying on a government office to provide private driveway pipe sizing. This subdivision holds more water...much more water. More than twice the water than we were required to hold. We have a preliminary drainage plan. I would like to offer at this moment, as Rob asked for time to review the final drainage plan, that we can make a copy of the final drainage plan, as soon as it is ready, available to Mr. Faulkner or any engineer or anyone else that they might choose to have so that they would have plenty of time to review that. The last thing that I ever want to do is make a mistake on drainage. I want to assure everyone, the Drainage Board and everyone in this audience, that is the last thing I ever want to do is to make a mistake on drainage. If there is information that I ever don't have, I want that information. I don't want anything to slide by. The community or common drain that is beyond that, and I did show for you the area that is Pond Flat Lateral A, for these people as the Drainage Board is aware, I'm sure, last year our Indiana Legislature passed some regulations that provide ways in which people can clean out common drains that are in between them. Just silt and cleaning and provide a manner in which they can approach it on a friendly

basis and provides even for a reasonable assessment of fees among all the people that would be benefitted. I think there is no doubt from the stories that you've heard here tonight that there are some drains on Pond Flat Lateral...on what drains into Pond Flat Lateral A that could benefit from a cleaning. I have inspected the area. I have witnessed it. I am aware of that. There could be some benefit to that. If there are provisions, which I know Bill passed out last week to Tony, some provisions to which a petition could be carried out to extend the length of the regulated Pond Flat Lateral A if the neighbors so desired. It takes a community effort because you have to...the Drainage Board or Commissioners can't do it. It takes a joint effort of all of the people who agree that yes, I want to sign up for that. So all these people here in this audience tonight who are complaining about this drainage, there is a legal opportunity available for them to do that petition. To sign up and say, yes, I want this part extended, either through the 1996 law or through the regular regulated drain ordinance, so the vehicles are there. Again, I want to assure everyone in the audience that we will do everything possible to make sure that this is all correct and that we go beyond the county ordinances. Thank you.

President Jerrel: We've got two hands up here. Is this a question relating to that?

Unidentified: One. First off--

President Jerrel: Name?

Mark Norman: My name is Mark Norman and I live on Old State Road.

Commissioner Mourdock: You need to go to the microphone.

Mark Norman: Wayne Ellis, which is behind this, he told me...I called him up. He was a friend of my wife and he told me...I was telling him about this situation and he is the one who told me...I said, yeah, you're backing it down to 63 houses because you just want to get it in. He goes, yeah, that's right. He goes every school in Evansville has houses going all the way around the subdivision. Toyota is breathing down our back to put in a subdivision for low income homes so people can get in here and he said I'm going to do it. I said, well, you're pissing a lot of people off. He goes, who am I going to piss off? I said, well, me one. He said, it really doesn't matter to me because he said I've pissed off people before just like Keystone Estates. He says I really don't care. He goes, but there will be houses all the way around your school. Then he is sitting here telling me that there are legal vices to go to. I shouldn't have to go through legal vices. That's what you guys are here for. I'm paying taxes for you guys to--

Commissioner Mourdock: Excuse me, I can't let that one go by. Please, please never depend upon government to defend you with your own rights. Please. Government will always fail you. He who depends on government will in the end always be disappointed. You, as a property owner, have rights. You don't want the government to assume those rights.

Unidentified: That's why we're here.

Mark Norman: That's why we're here is to tell you how we feel about this. I mean, I don't care how slow you put it. They're right. It don't take a 100 year rain or 25 year rain to flood that down there. I live up high, it doesn't affect me directly on that issue as bad, but I feel for those people because I've been down there on an inch rain before and not been able to cross the road. I realize you are going to slow this water down to not get it as bad if it does drain heavily, but you might only have an inch of rain over that road for three hours where it normally would have rushed across there and been acrossed there in a half an hour. That's the only thing you're changing here.

President Jerrel: Yes, the lady in back and then Mr. Easley is going to respond to you.

Linda Marcoccia: I'm Linda Marcoccia. I live at 14855 Old State Road also on high ground. Everybody out there maintains and takes care of their property. These ditches are clean. These ditches are taken care of. It's not like people neglect it. That's why people are here. We've had a lot of neighborhood meetings. People have taken off work. Everybody is upset over this. We didn't attend the other ones. Nobody is against development, but it has to be planned. This is sloppy work. Excuse me, but this is being pushed through. These people have put a lot of time, a lot of money and a lot of effort. These aren't just...this is a community. These people are out there working with each other. I'm on high ground. I've seen that Peck Road. I've seen that Baseline flood. We've been out there. We know these people. Everybody knows everybody. That's why we're here. That's just one issue.

President Jerrel: Mr. Easley.

Andy Easley: I can't resist the opportunity to make a statement about retention basins require expensive property and they require construction and in many cases it might be wiser to take that amount of money and let a developer put it into a fund and spend it on downstream ditch improvements which go begging for lack of coordination and money to do something with them if the farmer would give you the right of entry to clean the ditch and wouldn't mind if the ditch got bigger than it currently is. Bill said that ditch is almost...isn't--

Bill Jeffers: Don't start.

Andy Easley: No, no, no. I'm just saying in some cases it would be money better spent.

Bill Jeffers: By whom?

Unidentified: Of our tax dollars.

Andy Easley: No, no. I'm talking about developer's money.

Bill Jeffers: That's why I said don't go there.

Andy Easley: The developer's money.

Commissioner Mourdock: Andy, just for the record are you representing someone other than yourself?

Andy Easley: No, no. This was just a comment that in many cases the retention basin is an attractive nuisance to children. I was in Indianapolis over the weekend and I read that a man drowned in a retention basin. He was a grown man. Maybe he was trying to cool off.

Bill Jeffers: I wonder if they did an alcohol test on him?

Andy Easley: It's worth some thought to put it into a fund and use it for some needed maintenance.

President Jerrel: Okay. I think we've probably talked this and the chair will entertain--

Commissioner Tuley: I've got a question before you ask for a motion. Bill, normally when we are looking at a preliminary plan before it gets too final, if you have concerns normally you will write them on there and say before this comes back for final I want to see these changes and I don't see any such notation on this one.

Bill Jeffers: Many of the concerns that have been raised by individuals downstream of this development are valid. Many of the things that they have told you are true, but you've also had a lot of confusion thrown your way by people on Peck Road whose property and under whose driveways and through whose culverts this water will not go.

Mark Norman: It will slow that water up and make it back uphill.

Bill Jeffers: But, but, but, you know.

Unidentified: That's right.

Bill Jeffers: You have also heard from people who have bought homes out there in the past very few years who are amazed at what other people have seen go on for 20 years.

Unidentified: And we don't want it to go on.

Bill Jeffers: They have been out there for a year or two during some of the heaviest rainstorms that have occurred in this century in this particular locality and they are amazed at what other people, such as the fellow who lives at the corner of Korff and Baseline, have seen happen frequently over the 20 years that he's lived there. Since he has lived there 20 years we've had communications with him and we, as the government, both the Surveyor's Office and the Highway Department, have gone out there and done a lot of what we could do and we've spoken with that gentleman before--

Jack Jones: I've have never spoken to you, sir.

Bill Jeffers: You've spoken with people from my office beginning

in 1981 and since then you have built a dike around your property. Is that correct?

Jack Jones: That was built long before you came on.

Bill Jeffers: The dike has been enlarged and we told the caller from that residence several times that if they would get together with the other property owners--

Jack Jones: I have never called you, sir.

Bill Jeffers: I guess it was your wife.

Jack Jones: No, my wife hasn't either, sir.

Bill Jeffers: We told the owner of that property on several occasions in the early '80's to clean that ditch out behind his property and go with the farmer and clean that ditch out and get those trees out of that ditch. Now we hear there is going to be a petition come forward to extend Lateral A which is fine with us. Right now it ends at Boyle Lane. If these folks would like to pursue the statutory method of extending Lateral A up to Korff Road, fine. Hire the lawyer, file the petition and let's get with it. We've suggested that before to people who have called in. There is a whole row of houses down there all of which are built below the 100 year flood elevation. They were built before 1979 and they were built low. We've received calls from several of them over the past 15 years and we've been out there on several occasions and we've looked at the problem and suggested, since it is on private property at this time, get together and clean up the ditches. We've cleaned the ditches that we can clean, our office, starting at Pond Flat Lateral A on Boyle Lane downstream to Gibson County and Posey County and the Highway Department has cleaned out the ditches along Baseline Road which frequently silt back up because the lack of soil erosion control methods out there. Okay. A lot of what people have said about this is true. The man intends to develop the entire acreage. During our planning sessions that we've had several of we have encouraged him to find another route or another road out of there so the traffic would not all come out that entrance. We would not approve, in Subdivision Review, we would not approve a subdivision that developed that entire parcel and put all that traffic out on Old State Road so he cut it down to 62 or 63 lots. I told you how he arrived at that magic number. Mr. Easley would have us...I mean, Andy comes up with a lot of groovy ideas that involves government going out onto private property without any statutory authorization whatsoever and doing other people's work and we are not going to do it until we have the statutory ability to do it. You can collect all the money you want to collect. You can assess all the money you want to assess, but until we have the statutory ability to go onto private property and fix the ditches that belong to private property owners we're not going to do it. So we have an ordinance to control the rate of runoff from that development, which many communities in the state of Indiana do not have, and according to our ordinance that particular plan meets or exceeds the requirements for a preliminary plan. The reason I don't have a lot of remarks sketched on to there is

because they were addressed by the engineer when I first showed you that first one that was all red lined up. He addressed all those. I am sure there will be other concerns. You have the ability...and apparently their lawyer hadn't research our ordinance well enough so I will just go ahead and give them the free information. You can make discretionary decisions. One of them would be to declare it an impacted drainage area thereby making this subdivision have to adhere to stricter rules than another one would. Maybe the developer's lawyer would come in and say that was discriminatory. Do what you want, but Mr. Morley has already described that he has used calculations to detain a 100 year storm. I don't see how much higher we can go than that. You declare an impacted drainage area and we'll tell him to plan for a 100 year storm and he said he's already done it.

Commissioner Tuley: Has he? Can you tell?

Bill Jeffers: Pardon me?

Commissioner Tuley: You can say with certainty that's what he has done? I'm not questioning your honesty as much as I want--

Bill Jeffers: Yes, he has shown calculations on what will happen during a 100 year storm. That's what those little orange marks were for. I wanted to see the overflow areas where when a torrential downpour did happen how the water would get between those narrow lots. I'm very concerned about this development. I'm very concerned about trying to build a house on a 70 foot lot and not having space to get the floodwater between the houses and down into the detention basin.

Unidentified: That's all we wanted to hear.

Unidentified: Thank you.

President Jerrel: Okay, we're going to...I think we've had enough discussion. We still have one other petitioner waiting to be heard tonight and in all fairness to them the chair will entertain any motions of any sort.

Commissioner Mourdock: I have friends in the audience who right now wonder why in the world I ever ran for this office and I join you! I will, for the purpose of a roll call vote, move for approval of the preliminary drainage plans for Scott Crossing on Old State Road.

Commissioner Tuley: I take it he wants a roll call vote is what you said, so I will have to second to at least bring it to the table.

President Jerrel: Okay, you've heard the motion and the second and so there will be a roll call vote for the preliminary approval of this project. Commissioner Tuley?

Commissioner Tuley: On preliminary only, yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: I have been to a lot of these subdivisions around the county during what was admittedly the wettest April in history, April of '96, and I saw a lot of problems. I saw a lot of people who never thought they would have water that did have water. As Bill Jeffers said a few minutes ago, places where the Corps predicted there was water. I will say that I think a lot of the problems that we've heard here this evening have nothing whatsoever to do with this particular subdivision and all of the photos that you laid out before us dictate that. When a retention basin works properly, as Mr. Jeffers indicated, the same amount of water is discharged, however, at a slower rate. Nonetheless, having said that I also see that most of the problems, I think, that are in the discussion or were in the discussion tonight relate to properties that are actually downstream from this where there is not...and believe me you don't want to have government control. It is private property that you ought to work with your neighbors to get clean. I strongly suspect that we will hear of this subdivision again and how I vote in the future is somewhat dependent on how neighbors help neighbors between now and then. Having said all that, at this point I will vote no.

President Jerrel: I'll vote no, so the preliminary does not pass.

**Spring Park Subdivision - Preliminary drainage plan**

President Jerrel: The next item on the agenda is the Spring Park Subdivision, Kokies West Haven Gun Club.

Bill Jeffers: Spring Park. The proposed project for Spring Park Subdivision is located south of Booker Road immediately east of Kokies West Haven Gun Club and immediately north of West Haven Subdivision and the County's Surveyor's Office recommends approval of the preliminary drainage plan and we have several comments written on that plan that we want addressed before we see a final drainage plan.

President Jerrel: This is not the same one.

Bill Jeffers: This plan is substantially different from the plan that was presented which recieved a letter of insufficiency early.

President Jerrel: Okay.

Commissioner Tuley: Okay.

Bill Jeffers: The lots have been enlarged and the detention basins have been redesigned.

Commissioner Tuley: This no longer applies to this?

Bill Jeffers: Not to this one, no, sir. That was the previous plan.

President Jerrel: Is there anyone who would like to speak to

this plan at this time?

Unidentified: Yes, ma'am. I wonder if we could put that on the board as well, so that the audience might be able to see Mr. Jeffers' comments.

President Jerrel: Sure.

Commissioner Mourdock: Go ahead Mr. Faulkner.

Rob Faulkner: Okay, thank you. Again, my name is Rob Faulkner and I represent a group of a few property owners who live in the vicinity, some of who are here tonight. These property owners have some grave concerns as to this drainage plan. Not so much for what it does contain, but what it is lacking. It does not, we believe, meet the minimum requirements for preliminary approval. For example, I understand it is lacking data with regard to...and Mr. Easley, do correct me if I'm wrong, with regard to the amount of flow from the retention basins and I understand that is made through the use of what they call Gabion Baskets which are essentially devices which impede the water flow out of that ravine. However, they don't do it in a manner which can be quantified as far as what the exact flow will be. Again, I will ask Mr. Easley to address those things if he would like to. Again, I think there is other data missing. For example, the amount of storage in the retention basin, I don't believe that is addressed on there. Certain data such as pipe sizes and design flow for what will be leaving the site and as I understand it there is an issue with regard to...an issue somebody will have to address with regard to what may potentially be heavy metal contamination on the site since it was at one time an impact area for a gun range. That potentially has the potential for contaminated water running off of there which is contaminated with heavy metal such as lead. Finally, with regard to the erosion plan, I believe the erosion plan was only submitted today and that Mr. Wathen has certain concerns with that. I don't know if he is here or not. But that was only submitted today and he may not of had a chance to evaluate it. He was here earlier. I don't know if he would be willing to say a few words on that, so we would ask that preliminary approval be denied on the basis of the concerns for the property that aren't addressed by this plan. Also, with regard to the erosion control plan my clients have taken a few pictures of the erosion that is currently with all of the property in tact, the erosion problems that are currently there which would obviously be exacerbated by the ongoing construction. With that we would ask that the preliminary drain approval or drainage approval be denied.

Andy Easley: The counselor's statements regarding several things are incorrect. We have submitted calculations on the Gabion retention devices that I think Mr. Jeffers has not disapproved of. Bill, is that correct on the Gabion? Do you care to comment on that?

Bill Jeffers: The County Surveyor's Office is recommending approval of the primary drainage plan after having examined the designs of the Gabion system.

Andy Easley: I think counselor is incorrect on several of his statements. Mr. Jeffers is requesting...when and if...when they get ready to build on the lots he says they needs some detailed grading plans which is part of something that the Building Commissioner's Office looks at. The comment about a erosion control plan, the Rule 5 plan, is submitted to Soil Conservation Service and I don't think anybody in this building examines the erosion control plan and neither does the Drainage Board. The erosion control plan under Rule 5 is not required until you start disturbing five acres. We think the plan is well thought out. It does reduce the flow of water leaving the property and I think it has been designed in accordance with the county drainage ordinance and Mr. Jeffers says he recommends approval of it. I don't know what else I can answer. I think the counselor for some of the homeowners he represents, I think, his comments, again, I say are incorrect.

President Jerrel: Is there anyone who would like to speak to this project?

Gene Flick: I'm Gene Flick. I live at 5501 Booker Road and I represent approximately 30 homeowners in this area. I'm sorry that more aren't here tonight. This began back in February when we were notified of an incorrect meeting date and frankly attrition has taken its toll. We've been on high alert since February and people are just frankly getting kind of burnt out on things. We've got a couple of concerns as voiced by our attorney. I hate being up here after you've just gotten rung through the ringer on that last project and I sort of wanted to come up and almost say something for them because frankly I was very disturbed by something Mr. Morley had said. We did what he asked us to do. We did what Mr. Morley recommended. We got our property owners together. We retained an attorney. We talked to an engineer, got a verbal agreement from that engineer to review the plans so we would have an independent review for our Homeowners' Association. That engineer at the last moment backed out and would only give us a verbal report. He would not put anything in writing which is why we've got an attorney trying to describe engineering problems because, quite frankly, he did not want to cross Mr. Jeffers for fear that would disturb the odds of one of his plans being screwed up in approval and that contractor we had...I mean, that engineer we had talked to was Mr. Morley and I think I see tonight why he didn't want to cross Mr. Jeffers. I'm terribly disappointed that things worked out this way kind of leaving us high and dry without an official engineering opinion that he had verbally agreed to give us and which I agreed to pay. That's a philosophical point, but I'm concerned that is kind of the system has got to the point that the developer's have so much control that the engineers are afraid to cross this Board for fear of damaging their future developments. The one thing, again, I'm no engineer so I don't know, but just looking at the recommended revisions by Mr. Jeffers I see right across from my property, which is down in the southeast corner...southwest corner, you've written a notation saying good. I believe that is in reference to adding a culvert under the road. Is that right, Bill? You've written it like it is something you liked and I believe it is referring to increasing the size or adding a culvert down in that bottom

left corner.

Bill Jeffers: That's right.

Gene Flick: Well, I'm here to say that I don't know much about 25 or 100 year rains either, but that new culvert was put in about what...? Six weeks ago? Eight weeks ago? The road has already flooded over and there is a log laying in the middle of the road from where both culverts that are now under the road were unable to carry the water that is heading into that subdivision, so I have a concern about that. That's the water heading in. I mean, that's before it even gets there and has to handle the runoff. I would love for Mr. Wathen to address this issue. I heard him talking in the hallway tonight. I don't know if he knew I was eavesdropping, but this is an extremely hilly ravined area. The lots are literally every one of them is going to be built on an angle. We're going to pull out all the trees. Mr. Bolin, the developer, has already started logging the area. Just to paraphrase something Mr. Wathen said and if he cares to correct me I'm here, when we remove the canopy from this it is going to be a bear to keep the erosion under control. It's already a problem and when we take the trees out and the forest it is going to be worse. Certainly, neighbors downstream have concerns about that and if they wish to address it I'll let them. I really can't speak to that. I'm upstream. I can just tell you that the water headed that way is already on the verge of being out of control. We're very much worried about the erosion and Mr. Wathen, if you guys care to hear from him I guess you can call on him. Those are my concerns. We have, you know, concerns that there are some things on this plan that haven't been laid out exactly. We would like to get a real opinion from an engineer if we can find somebody willing to potentially address this Board. I would just ask on that ground that you give us a little more time to retain somebody. We thought we did it the right way, but we kind of got left holding the bag, so we appreciate your time.

Jerry Atkinson: If I might, my name is Jerry Atkinson. I do represent Mr. Bolin, the developer.

Commissioner Mourdock: I'm sorry, Jerry, who is the developer?

Jerry Atkinson: Mr. Bolin.

Commissioner Mourdock: Bowman?

Jerry Atkinson: Bolin. B-o-l-i-n. If I might, this subdivision came to you originally with more lots and less adequate drainage design. Mr. Jeffers created a masterpiece of explanation of what needed to be done. We met, we went out to the property, we've walked the property. We came to an understanding of what the needs were that were being expressed by Mr. Jeffers. There is all along the west side of the property a creek, a very beautiful creek. It's got natural limestone. It's got trees. It's hilly. It's a natural park, if you will, and the redesign of the subdivision is to allow this park-like setting to be a common area for the benefit of the subdivision and their guests and invitees. There will be within this natural deep, as deep

as this room or more in some places, gully detention basins forming temporary lakes and we have redesigned, if you will, this subdivision to meet the drainage requirements and the water will be contained and the rate of flow coming out of the subdivision will not be as great as it was because of these detention basins. The restrictions will require erosion control during construction. There will be sod replacing weeds. There will be grass growing on lawns and I would suggest that this is a preliminary approval that is being sought tonight. It's recommended. We've met with the neighbors. There was a large contingent of neighbors that came over to the Gun Club and met with us and went over the subdivision. I don't think it is just the attrition of time that has caused a waning of interest in fighting the subdivision. It's a better subdivision now. It's a neater place to be. It will be a great place to build houses and I would urge you to go ahead with the preliminary approval. If any issues need to be addressed that are raised as a result of an engineer examining the final plat and the final drainage those can be done. I found Mr. Jeffers to be quite fair and quite willing to work with all people in my dealings with him.

President Jerrel: Did you have a question?

Jewell Flick: Yes, I do. My name is Jewell Flick. That was my husband that spoke before. I'm not quite for sure where the retention area is unless it's a round spot there. I just saw...we just heard about the Gabion Baskets that are going to be there, but on the original plat we had the stream was still going to be intact. They have never decided to get rid of it because that's just where the water has to go and if they get too far into it then they're going to have erosion into it, so that's why they're going to have to leave it. So it was there on the original plat they've just made it sound better this time. I do not know where the retention pond is. I can't seem to find it on my plat. Is that the area that is right there between six, seven and eight?

Andy Easley: The Gabion check will be right here. If you back up to here in the cross (inaudible comments not from mike).

Jewell Flick: So you put rocks in here and then this is like you dam up the water?

Andy Easley: The water will be held back for a brief period of time.

Jewell Flick: Okay. Do you know how long that takes for that to release into the stream itself?

Andy Easley: The calculations were submitted and they're satisfactory to the Surveyor's Office.

Jewell Flick: I just wanted to know, you don't know right off the bat?

Andy Easley: I think maybe...not much longer than two hours, Bill, do you recall?

Jewell Flick: I just wondered. When it floods I'm the one that is at home. When it floods over the road we're talking big time flooding and if they build the houses too near the creek bed they're going to be in their backyard and you're going to have people griping about water standing in their backyard again because it does...it can't handle it when it comes down because it comes down through our backyard and through other people's property. It's not affecting us, but it will affect the people that are along that creek line when it starts to flood especially Lot 1, 2 and 3 until it can get into a bigger area there. Thank you.

President Jerrel: Is there anyone else that would like to speak? Yes, sir.

Dan Harsch: My name is Dan Harsch. I live at 2815 Meadow Lark Court. I live in West Haven Subdivision which will lie south of the proposed subdivision. My issue is not really ground water drainage because my lot is elevated so I don't think I'll ever have any problem with overflow from the creek. I had a couple of questions about sanitary sewer and I'm not sure if this is the proper place to bring that up or not because a couple of months ago there was discussion of...I'll walk over here and show...I was wondering if they have made a final decision. My lot is right here. The creek flows down here and I am wondering if they've made a final decision on tapping into the West Haven Hills sanitation sewer system? If they put 30 more houses on our system, has there been enough study done to adequately make sure that 30 homes coming in onto the West Haven Subdivision's sanitary sewer can handle that and make sure we don't have any backup of our sewer in our subdivision? The other thing I was wondering is I think there was discussion about...I'm not sure exactly what's been decided on where they are going to tap-in to West Haven and I wonder if they've made a decision to go down my property line and my neighbor's property line or if they'll actually run the sewer system someplace else? If they've made a decision if they come out here to tap-in, they'll have to tear up part of the circle to get out to where the sewer system runs across here. I see these markings on here, so I'm just wondering if they made a decision where they go straight out to the middle of the cul-de-sac or is there still the possibility that they're going to run it another direction?

Commissioner Mourdock: All those are good questions and quite honestly I don't think any member of this Board has a clue! The Utility Board is obviously aside from county government and that question needs--

Dan Harsch: So the sanitary sewer is completely separate from the--

Commissioner Mourdock: Right.

President Jerrel: Yes.

Dan Harsch: --ground water drainage.

Commissioner Mourdock: Right. Yeah, we have no control over how they do that, where they tap-in, what's size tap-ins or how many

they allow.

Dan Harsch: Where does that get addressed at? With the Water and Sewer Department?

Commissioner Mourdock: Right.

Dan Harsch: Okay, thank you.

Commissioner Mourdock: I appreciate your patience to sit all the way through the meeting to hear that as an answer. I know that is not a popular answer.

Unidentified: The developer doesn't have to propose those tap-ins?  
(Inaudible comments made from audience.)

Bill Jeffers: The developer is working with Mr. Jim Williams from the Water and Sewer Utility. That's who you should call, Mr. Jim Williams.

Commissioner Mourdock: Thank you, Bill.

Bill Jeffers: I believe the number is 426-5775 or 4.

Jewell Flick: His name is Jim Williams?

Commissioner Mourdock: Correct.

Bill Jeffers: One of those two numbers will get you there.

President Jerrel: Okay, any other discussion?

Gene Flick: I would simply remind you all of the concerns about the lead shot lead going downstream especially if you have kids in the area.

Commissioner Mourdock: That issue not being a drainage issue, either as one this Board...it kind of goes beyond our scope, I guess that one would be appropriate though at the Area Planning Commission when this one is heard there. That's an interesting one that I've never heard brought before that Board or this one.

Bill Jeffers: They're awaiting information from both the EPA and the Health Department.

Commissioner Mourdock: Have they done characterization tests of some type then, Bill? Is that what they're waiting for?

Bill Jeffers: Pardon me?

Commissioner Mourdock: Are they waiting for test results for the contamination?

Bill Jeffers: I don't know what they are waiting for, but the issue is being addressed between the developer and the Health Department and the EPA.

Commissioner Mourdock: Okay, thank you.

President Jerrel: The chair will entertain any motion that anyone wishes to make.

Commissioner Tuley: Before you ask for a motion, I live awful close to this and I'm not sure that I can give an unbiased vote here, so I wish to abstain.

Commissioner Mourdock: Madam President, I'll move on preliminary approval, and key word there being preliminary again, that we grant preliminary approval for Spring Park Subdivision, Kokies West Haven Gun Club.

President Jerrel: I'll second that motion and so order. Now, when you have this go before Area Plan, since we have this initial information that you worked over and I remember that meeting well and what happened afterwards, then can we expect to hear before final approval rather than just a few days may we have some adequate information what comes from that before the final?

Commissioner Mourdock: Was that question directed to--

President Jerrel: It was directed to Bill and to you as our representative.

Commissioner Mourdock: Okay, yeah.

President Jerrel: In other words, it helps if we have--

Commissioner Mourdock: Let me just clarify.

Bill Jeffers: I'm not sure what the question is.

Commissioner Mourdock: Okay, let me clarify my part of the question. One member of the Board of Commissioners, which also serves as the Drainage Board, of course, one member of the Board of Commissioners serves on the Area Plan Commission. Right now, that happens to be me, so I'll be at the meeting the first Wednesday in August, so I will report to that group and vice versa back to this group.

President Jerrel: Right, that's what we ask because we need to know what happens so that all the information doesn't get to us, you know, the night of the final drainage.

Commissioner Mourdock: You would like it before then is what you're saying?

President Jerrel: Yes, yes.

**Old business**

President Jerrel: Alright, the next item on the agenda, if I can find the agenda, wait a minute. I've written on it and couldn't even tell what it was. Any old business? Is there any old business, Mr. Jeffers, to come before the Board?

Bill Jeffers: Not at this time.

**Blue claims**

President Jerrel: Is there a motion to approve payment of the ditch maintenance?

Commissioner Mourdock: You've got those?

President Jerrel: Yeah.

Commissioner Mourdock: Do you have any comments on the claims, Bill?

Bill Jeffers: We have three blue claims for payment for normal maintenance or other maintenance on regulated drains in Vanderburgh County. All three of them are signed by the Surveyor and the proper paperwork is attached to each claim also signed by the Surveyor. The Surveyor recommends approval of payment of these three claims.

President Jerrel: Is there a motion to approve claims?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered. Did you wish to speak to the Board?

Eldon Maasberg: I don't think it would be worthwhile. (Inaudible comments made from audience.)

President Jerrel: Okay, you've had some interaction?

Eldon Maasberg: (Inaudible comments made from audience.)

**New business**

President Jerrel: Is there any new business, other business, correspondence or discussion?

John Stoll: Under new business I would like to request that we have the ditch reconstruction hearing for the Maasberg Ditch at next month's Drainage Board meeting.

President Jerrel: Is there a motion for that approval?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

John Stoll: I'll get with Charlene as far as advertising requirements and things like that.

President Jerrel: Okay, and Wednesday or Thursday of this week you are going to try to set up a meeting with you and I?

John Stoll: Yes.

President Jerrel: Okay, is there any other business to come before the Board?

Commissioner Mourdock: I'll move adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting was adjourned at 9:55 p.m.

***Those in attendance:***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
John Stoll  
Andy Easley  
Bob Woodward  
Michael Smith  
Jim Morley  
Patrick Kelly  
Rob Faulkner  
Baldy Darnay  
Greg Hill  
Jack McDevitt  
Connie McDevitt  
Jack Jones  
Mark Norman  
Linda Marcoccia  
Gene Flick  
Jerry Atkinson  
Jewell Flick  
Dan Harsch  
Eldon Maasberg  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
August 25, 1997**

The Vanderburgh County Drainage Board met in session this 25th day of August in the Commissioners' Hearing Room of the Civic Center Complex at 7:00 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I would like to call the meeting of the Vanderburgh County Drainage Board to order.

**Approval of the Minutes**

President Jerrel: The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Tuley: I'll move approval of the July 28th Drainage Board meeting.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

**Public Hearing - Maasberg Ditch**

President Jerrel: Under the action items there are four listed. One is a public hearing and I'd like to take that first because it's a...most of the people here are for the other items, if that's alright with everyone else? That is the Public Hearing for the Maasberg Ditch and that was advertised and Mr. Jeffers has notified the adjacent landowners.

Bill Jeffers: Okay, we mailed out notification to all the persons or entities who are assessed for the maintenance of Maasberg Ditch and this shows to whom we mailed them. We received...which included Marvin Zwahlen, Eldon Maasberg, Edwin and Helen Kron in care of Melvin Kron, William and Marthalene Reisinger, and the Vanderburgh County Auditor for the portion of the road that's owned by the county. Of those five people, we received back green slips certifying that the mail was received from the Krons, the Reisingers, and the Vanderburgh County Auditor. I called Mr. Marvin Zwahlen today and he had not received his because he was on vacation last week and I told him when and where the meeting was and he said if he was interested in it he'd be down here and I did not receive back a certified receipt from Mr. Eldon Maasberg who's here in the audience today and is aware of the hearing. These are attached to the notice of the public hearing that was advertised in the paper, I believe both...the Auditor advertised, I believe, in both papers stating the hearing would be held at or about 7:00 p.m. today in this room and that's attached to the Surveyor's report on Maasberg Ditch which gives a description of the ditch. It says it's in need of reconstruction, describes the portion of the ditch that needs to be reconstructed. It gives the Surveyor's determination of the need of reconstruction which basically is to enable the construction of a new bridge, Number 1300, with a wider bridge deck and a wider roadway therefore, the channel has to be moved

over. The Surveyor's determination that the best and cheapest method is to use the bridge plans that have been...those have been on file in the County Engineer's Office and in the Surveyor's Office for public viewing for a period of several weeks. Mr. Stoll has those plans with him here today in case someone has not had a chance to look at it. It gives the Surveyor's estimate of the cost of the reconstruction, the Surveyor's determination of all affected land which I've given those five owners notification. The Surveyor's consultation with your Board stating that the Surveyor recommends zero dollars be assessed against the first four properties, which are those private lands owned by the individuals, and that the sole beneficiary of the reconstruction is Vanderburgh County. That's made based upon the Surveyor's determination that the county roadway is of benefit to the entire county and all those who travel it, therefore, the county is the sole beneficiary and should pay 100% of the cost of the reconstruction. The Surveyor's determination benefits the same thing, the entire public benefits from it and therefore the Board of Commissioners, representing the public, should pay for it. It gives the Surveyor's determination of damage, which basically is the acquisition of right-of-way needed to move the ditch over onto the property owned by Mr. Eldon R. Maasberg, the sum of those damages and goes on to give the Surveyor's determination of the total cost and the assessments to be made, again, all of which would be made against Vanderburgh County and payable by the Board of County Commissioners of that county. Then it lists the property owners all as required by statute. It gives you a map of the ditch itself and the portion which is in need of reconstruction, identifies the property owners by warranty deed and this report is available to anyone at this time who would like a copy of it. Is there anyone here who would like to see a copy of it?

President Jerrel: Let's see, is there anyone that wishes to speak to this issue?

Eldon Maasberg: I do.

Bill Jeffers: If there are any persons who wish copies of this, I'll leave them with the secretary...the Board's secretary down at this end of the counter.

Eldon Maasberg: My name is Eldon Maasberg, I live on 14747 Lutterbach Road, which is the next road west of Maasberg Road, which my grandpa lived on and Maasberg Ditch was named after my grandpa. The way I see it, they are wanting to move the ditch over into my field and, if I understand him right, your lawyer said, you don't want to do nothing to Lutterbach Road. Am I right? He don't know nothing about it. It's between them two right there. If that's the case I do not want to give up the ground for the bridge. First of all, I was down on Mann Road, that's why I seen that water, is, according to these plans that they sent me back at Christmas, going to be square with the downstream, but not square with the upstream and you're going to have a blockage of limbs and trees, just like Mann Bridge has got now. With all this blockage, who's going to take this stuff up? Who's going to pull these trees and stuff...off of dead trees as I heard him talk about last month. You're driving dead

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trees into the ground to hold the bridge and that makes it a drag on the water which helps slow it down, it don't get through and then you're going to be putting them in at an angle that is not square with the upstream coming into it. So, naturally, you're going to have trash build up on it. Who's going to take this trash out? Is it going to be the farmer, or is it going to just lay there?

President Jerrel: John, do you want to speak to that?

John Stoll: That will be the County Bridge Crew to maintain the bridge once it was built, so any debris that was out there they should go out there and clean that up.

President Jerrel: What about the design question that Mr. Maasberg raised?

Joe Harrison, Jr.: The skew should line up with the ditch. I'm not familiar with that concern off the top of my head, but I can check the plans and take a look at it, but usually the skew is...the bridge is to line up with the skew of the ditch so if it's not then we can address that as well. As far as the Lutterbach Road issue, we can find no record that the county has maintained that road for at least 20 years. The only...the last...the best record we found was from an old road inventory back in 1977 that showed that the county maintained a portion of Lutterbach north off of Boonville-New Harmony and south off of Armstrong, but not continuous throughout the entire right-of-way for that road.

President Jerrel: Did you have a comment Mr. Maasberg?

Eldon Maasberg: Well, that brings up another subject. Farmers push the snow off the roads. They do the work, but when it gets time or gets big, you hire big contractors. The farmer does it for nothing. We do the work on our county roads and ditches and this ditch I've graded out many times. For the little money that I bid Maasberg Ditch into cleaning, which someone in the records has changed it from my dad's house, all the way along Maasberg Road and then it goes across the dirt road, which the piece there, if what he's saying, if ain't corrected now it'll go just like Lutte...yeah, Lutterbach Road. I don't own it no more. Which is the correct ditch? The one that was dug back way back there before I was ever born or the one that we dug after I come back from the service in '66 when this ditch was made originally, I'm going to say, somewhere around the teens or twenties.

President Jerrel: Joe, I see a question on your face. Do you know what Mr. Maasberg is talking about?

Joe Harrison, Jr.: No.

President Jerrel: Who did...Mr. Maasberg, who did you talk to?

Eldon Maasberg: I didn't talk to nobody. Right here is the papers they mail out every year that I take the bids.

President Jerrel: Okay, I know the bids that you...for the

drainage work--

Eldon Maasberg: I talked to Wayne about it several years ago when I first noticed it. I can't think of his last name, but Bill could probably help.

Bill Jeffers: Pasco.

Eldon Maasberg: Pasco. He says as long as you clean the right ditch, don't worry about it. Well, both ditches run behind my 40 acres, so what the heck, I clean the whole...around the whole farm anyway. As one...but if I don't get the bid and someone else does, they're going to clean it according to the new records not the old records that goes up to the house.

President Jerrel: So the issue is over who cleans the ditches, is that...?

Eldon Maasberg: No, the issue is where it is at, at the point according to the papers that we pick up from the county from the County Surveyor. With this part of--

Joe Harrison, Jr.: I was just going to say, we can take a further look at it if there appears to be a description error, I can take a look at it with the Surveyor's Office as far as that issue is concerned.

President Jerrel: Well number one, has that not been done?

Bill Jeffers: We have an ancient book that describes all the ditches that were ever legal drains in Vanderburgh County, many of which are no longer legal drains. A lot of those descriptions will run so many feet in a certain direction and then take a turn and go up to so and so's front door step or something like that. I mean, it's hard to determine because they're not by exact meets and bounds. Now, Maasberg Ditch, to the best of my ability, is described in that document and the portion which Mr. Maasberg is questioning has nothing to do with the area that needs to be reconstructed. It's a...the area that he...the portion of the ditch that he contends turns west and goes towards his father's old home place is about a quarter of a mile north of the portion that's in need of reconstruction. So, it really has no effect. If I have incorrectly described this ditch we will be able to correct that by looking at this old book we have and we can make that correction, but it does...it has no bearing on this report, because the portion that I described that's in need of reconstruction is the last 300 feet of the ditch as it runs into Buente Upper Big Creek down by the bridge. The sole reason for the reconstruction is to move it over in order to widen the bridge deck and widen the roadway.

President Jerrel: Is that how you understand it, Mr. Maasberg?

Eldon Maasberg: I understand that part, yes.

President Jerrel: But it's not--

Eldon Maasberg: It's not part of it, but since I'm here I'm bringing it up.

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President Jerrel: Okay, well they are kind of getting confused. If we can deal with this--

Eldon Maasberg: But the question is, they're putting the bridge in that's going to be at an angle, is squared with the downstream, but it makes a curve to the...what do you call it? West heading to the east? No, to the south.

President Jerrel: John Stoll said he would make sure--

Eldon Maasberg: I went down and looked at the bridge on Mann Road and you can see it is crooked in the stream. You can also look at it and see trash hanging on it at this day. He says they can clean it off, well how come it hasn't been cleaned off? Grass is growing on it. Whose job is it? Us that bid the ditch in or is it going to be extra? This is my question. Who is going to clean this trash? The other two that is square with the upstream, man they're clean, there ain't nothing on them. Mann is full. Someone even put a wire in there to help keep the trash from being in there.

Commissioner Mourdock: I think I heard John say, correct me if I'm wrong, John, but if it's not square you would take another look at it, is that right?

John Stoll: Yes.

Eldon Maasberg: Another thing you got to also realize, when Maasberg Ditch throws the water out it pushes against the far bank, the south bank, which normally the abutment on that side is washed out. I noticed this morning when I was down there, somewhere down the line a bunch of concrete washed out of that ditch that comes down along Larry Goebel and it has caused these figures to look right as far as where the true depth is, but normally if that concrete wouldn't be there, the depth would be against the south bank over there. I guess that's all I've got for this time until this is over, but I do have another one after this gets passed, but really, since this is according to the design now, I do not want it, because to me it's not going to be that much good. There is only...on that road, there's five people that's all that lives on that road. On the Lutterbach Road there is nine people and I'm sure you could put a culvert in on Lutterbach Road a heck of a lot cheaper than you're going to put a bridge...I haven't seen his figures, but I don't know whether it was \$10,000 or \$100,000.

President Jerrel: I have a question too. When you talk to the people of the Bridge Crew tomorrow, will you mention Mann? Of course it's been raining, you're going to get a lot of stuff to carry, but make sure that it gets cleaned out. Is there anyone else that wishes to speak? Any comments from the Commissioners?

Commissioner Tuley: The only question I have for Bill that I didn't hear him say was the county is going to pay for it, what's it going to cost and where is it coming from?

John Stoll: The installation of the bridge will probably cost--

Commissioner Tuley: No, I'm talking about...you're talking about

the reconstruction of the ditch, I thought is what this public hearing was on. That was my question. It was directed at that.

John Stoll: That would come out of the bridge project, so it would be out of the Bridge Fund. I don't have the exact figure with me, do you have a cubic yards of dirt?

Bill Jeffers: There was a line item in the bid for the reconstruction of the bridge that specifically, you know, is designated for the excavation of the ditch and I didn't want to compromise the bid by announcing that publicly in case it has to be rebid. You know what I'm saying?

Commissioner Tuley: Okay, but the question is the...yeah that's fine.

Bill Jeffers: So, our cost estimate is whatever the engineer's estimate or what the final cost for that line item turns out to be.

Commissioner Tuley: Okay, but there's money in place?

Bill Jeffers: Right, out of the Bridge Funds.

Commissioner Tuley: Okay, that was more of my concern.

Eldon Maasberg: I've got one more question if you don't mind? I do have two tiles leading into Maasberg Ditch right in the area of the bridge. I don't know whether he's assessed that or not. I want to make sure they stay open at all costs.

John Stoll: That can be put in the plans.

Bill Jeffers: That's the same situation we had on Bixler with Mr. Adler. We made sure all of his drainage pipes were incorporated into the bridge plans. I think we made improvements down there with installation of flap gates and so forth.

President Jerrel: Is any...does anyone else have a question? So, we're going to take care of the...even though it's (inaudible) the Mann Bridge cleaning and the ditch on the property that was mentioned, the other ditch, and two tiles that lead into the ditch. Okay, is there any other information that needs to be presented at this time? If not, I'll entertain a motion.

Commissioner Mourdock: What do we need the motion for specifically? This is a public hearing.

Commissioner Tuley: I would assume for the reconstruction of the Maasberg Ditch?

President Jerrel: Yes, it's for the reconstruction of 300 feet of Maasberg Ditch along Maasberg Road immediately north of Buente Upper Creek.

Commissioner Tuley: I'll move approval.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

**Scott Crossing - Preliminary Drainage Plan**

President Jerrel: The next item on the agenda is the additional discussion and request to approve preliminary drainage plans for Scott Crossing. That was just the air conditioning going on, it isn't raining.

Bill Jeffers: Yet! Okay, I just brought a real simple hand drawn display of the area around Scott Crossing, nothing fancy. Can all the interested parties see up close? The yellow area is the proposed subdivision and this is Old State Road off which the subdivision will enter. The blue area is the extent of the 100 year floodplain which comes up into the subdivision parallel with its north line and then down. All the water leaves the subdivision at the northwest corner of the subdivision under current conditions and that will be the case after the development is complete. The detention basin will discharge the water at this same corner. Your orange line shows the path that the water takes down the open field farm drain to Baseline Road, which is this road here, then the water travels along the side ditches of Baseline Road to Korff Road, which is this blue line here, then the water travels north along Korff Road to a natural ditch, which I still have that in orange. It runs over here to Boyle Lane, then it runs along Boyle Lane to a little bridge that used to...the bridge is still there and then that's the beginning of Pond Flat A and the county maintains Pond Flat A up to Boyle Lane, so it's a different color, it's pink on this map. The red dashed line would be the portion of that...what we could just for purpose for discussion, we'll call that Pond Flat Main or Pond Flat Lateral A, excuse me, and this would be the portion that some people are talking about that is in need of improvement so the water can travel faster down to the portion that's already maintained. There's some other identifying features on here for discussion. This way is north and there are small red squiggly lines that show you the path of natural drainage through the area that may come up for discussion as people discuss it and the County Surveyor's Office made the recommendation for approval for the preliminary plan that was presented at last month's meeting. There was one question that came up...there was a question that came up during the discussion of that plan, where Mr. Morley got up to the microphone and made the statement that the availability to store a 100 year storm...that they had the room to store that 100 year storm in the basin, which I've kind of crosshatched in green along the north line of the subdivision and I know that the expression on my face may have given an iota of doubt to some of those who saw it, because I was not sure exactly what he was talking about and we've gone back through the calculations and I found the chart that shows that in order to store the 100 year volume of runoff after development of the portion of the subdivision that they're asking you to allow in this drainage plan and then release it at the same rate of a ten year storm as it would presently be released on that agricultural land at that rate that you must...in order to do that, you would have to store 7,300 acre feet or about 3/4 of an acre foot at a point 25 minutes into that 100 year storm. That would be the peak storage rate that would be required to hold a 100 year runoff and

release it at a ten year pre-developed rate. So, again, you would have to store approximately 3/4 of an acre foot during peak discharge rate. That was shown on this chart in a submittal that was about 20 or so pages long and then the design engineer has shown me...this basically represents a strip of land 1,300 feet long and 80 feet wide which is located up here. Approximately 1,300 feet along the north line of the subdivision and 80 feet wide. That area is set aside for detention basins and he has divided that into four step basins, because there's a ten foot difference in land grade from the east side, which is to your right, and the discharge point into the open farm drain, which is on your left at the northwest corner, there's a ten foot drop. So what he is proposing could be done, is that you would step these down like rice patties or terraces and each one of those individual basins would be in a line like dominoes, then each one is about 310 feet long and about 80 feet wide. Of course, some of that is easement. Ten feet on each side is easement. Within each one of those smaller basins there is a storage capacity of .99 acre feet, or just less than 1 acre foot per basin. As I showed earlier, his chart shows the need to store 3/4 of an acre foot total for this first phase, which is about half the land area and he's showing you he could store that amount with excess capacity available in any one of the four basins that he could create there. So bottom line, in the first half of the development he has two basins available to him, each one of which could store 25% more than would be required to store a 100 year storm and release it at a ten year rate and still have two more potential basins if the project were fully completed using the entire acreage shaded in yellow over here. He would still have two more basins, each one of which could store 25% more than necessary to hold a 100 year storm runoff and release it at a ten year rate.

Commissioner Mourdock: So, Bill, excuse me, let me just clarify that if I may with a question?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: You're saying each...if nothing happens north of this subdivision, of this proposed subdivision, if nothing ever happens north of this subdivision, that if built as engineered, those four ponds would effectively reduce by at least 25% the discharge to the north from that same area?

Bill Jeffers: Two of the ponds could do that.

President Jerrel: Yeah, it would be--

Commissioner Mourdock: Okay, two of the four?

Bill Jeffers: He has room for four and two of the ponds could do what you just described.

Commissioner Mourdock: Okay, so--

Bill Jeffers: Now that's a rate of runoff in cubic feet per second for however long it takes to discharge it at the ten year discharge rate. Right now it's flowing uncontrolled, however much falls on the ground runs, you know.

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Commissioner Mourdock: Ideally, or I shouldn't use that word, as a practical matter, the people on Baseline Road would see the reduction from these ponds if they are put in that otherwise they're never going to see?

Bill Jeffers: In cubic feet per second, yes.

Commissioner Mourdock: Another question, along that north/south segment of the orange line, and I can't read what it says, something of flow. Is that the ditch that was being referred to a month ago regarding a tree and some objects in it that needs to be cleaned out as well? Was that the section, yeah, from there north 1/4 of a mile?

Bill Jeffers: From the northwest corner of the proposed subdivision to Baseline Road. This says path of flow from the project through off-site properties. The county planametric shows a little patch of woods right here immediately off-site. I have not visited the site to see if any of those particular trees are, you know, in the channel of the ditch. It does show a very small patch of trees along...that could be brush or that could be large trees. It's just the symbol for a tree...a patch of trees that's like this one here.

Commissioner Mourdock: Sure, yeah.

Bill Jeffers: From the aerial photographs, they will put that on there to show that there's some sort of heavy vegetation, either brush or trees, but I do not know and can't answer whether there is some trees directly in the path of flow. However, I'm sure there are folks in the audience who could clarify that for you. In order to remove those, you...the person developing this property, the developer, would either have to have permission to go there on that person's land and do it or provide funds to whoever owned it to do it or just ask them to do it out of the goodness of their heart to remove them. Our main concern is to see that the discharge from that point into the ditch, regardless of its condition, is at or below the current rate of discharge.

President Jerrel: While you're up there, before anybody else speaks, I want...may I ask you a question on the Lateral?

Bill Jeffers: Yes, ma'am.

President Jerrel: In your opinion, if we extended that Pond Flat A Lateral and accepted it as a legal drain, would that improve the flow of the water? I mean, would that have a bearing on Baseline is what I'm...I guess that's what I mean, in that area?

Commissioner Mourdock: Are you asking, would that reduce the area that's shaded in blue, the 100 year?

President Jerrel: Yeah, if it would expedite the waters?

Bill Jeffers: Well, there was some folks here last month who showed you pictures of, I believe, it was this intersection.

President Jerrel: Yeah, it was.

Bill Jeffers: Of Korff Road and Baseline--

President Jerrel: Right.

Bill Jeffers: --where there is a huge volume of water going over the top of the road. Once that water went across the top of the road and got into the ditches along Korff Road and reached this point on Korff Road where Pond Flat Lateral A turns...the unaccepted and unapproved portion right here turns and goes that way. If we were to clean that out the water would leave the area much quicker, yes. So, if I'm...let me put words in your mouth and say that the Commissioners would wish to more...or to improve the drainage of Korff Road and the intersection of Baseline and Korff--

President Jerrel: Yes.

Bill Jeffers: If that's your wish, one way to do that, that would help some, would be to improve this ditch here and incorporate it into Pond Flat Lateral A.

President Jerrel: You obviously haven't put a pencil to that to see what kind of cost we're talking about?

Bill Jeffers: No I haven't, but I did bring with me...well I didn't bring that particular page. Last week I said that if persons wishing...individual private property owners wishing for Pond Flat Lateral A to be extended up to Korff Road could have their lawyer petition the Drainage Board to do that. Also in the very same section of the statute it states that if the County Commissioners, acting as a Board of County Commissioners, wish to more...wish to improve the drainage of a county roadway, you may petition the Drainage Board yourself to have a reconstruction.

President Jerrel: The reason, I mean, I'm interested--

Bill Jeffers: Do you have a chapter there?

Joe Harrison, Jr.: I don't have that particular chapter.

Bill Jeffers: Do we have the books back here?

Joe Harrison, Jr.: Yeah, I can look for it.

President Jerrel: Well, would you?

Bill Jeffers: I can find it like that.

Joe Harrison, Jr.: There are some provisions relating to the reconstruction of the drains that were...that are under our jurisdiction at this point and the extension of open drains, which to me that's an open drain area, it's a natural watercourse, but the provisions I've looked at deal with the public petitioning the Commission to take that upon itself. I'm not aware of the Commissioners on its own going out and--

President Jerrel: He's gone after the citation.

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Joe Harrison, Jr.: --doing what you're looking at?

President Jerrel: The only reason I raised that last week and I raise it again today, is we heard...I went back and reviewed the minutes and a lot of what I heard had to do with Baseline and the concerns on, you know, the water standing and the area not having the drainage that it should. If there's something that we can do to improve that, even though it kind of...it's an off-shoot of this, it isn't really this.

Joe Harrison, Jr.: The only thing I can think of is the only way the county could, with respect to a road project, do anything is if it's in our right-of-way, you know. If it's our right-of-way then we can make whatever improvements, but if it's on private property we're going to have to take some property, so that's another cost.

Commissioner Mourdock: But, did I hear...and he's out of the room, he's about to be back in the room. If I heard Bill correctly, what Bill said was, that because the drainage problem along that course negatively effects county highway property, that the County Commissioners could act to declare or to petition to begin that process to declare that a legal drain and if that's the case, then do the same funding mechanisms remain in place as far as taking care of it? It seems to me that's--

President Jerrel: I don't know why they wouldn't.

Commissioner Tuley: What funding mechanism are you talking about?

Commissioner Mourdock: Well, in a normal legal drain method where you have drain assessment.

President Jerrel: Most of all these people pay it anyway.

Commissioner Tuley: Doesn't that come automatic? Do those people pay it? You would think, yeah.

Joe Harrison, Jr.: Sure.

President Jerrel: They all pay it anyway.

Commissioner Mourdock: Well, they don't pay it now, but in a legal drain system they do.

Bill Jeffers: They pay now.

President Jerrel: Yeah, they pay now.

Bill Jeffers: They pay an annual assessment.

Commissioner Mourdock: But they pay now, but conceivably if the public came to us and said, we want a petition to have this be a legal drain, they are in fact saying we want to agree to have our taxes raised.

Commissioner Tuley: Let me bring--

President Jerrel: But, I think they are already paying.

Commissioner Tuley: They're paying a--

President Jerrel: They already are paying.

Commissioner Tuley: They're paying a drain--

President Jerrel: They're paying already, they're just not getting anything for it.

Commissioner Mourdock: I got you.

President Jerrel: Yeah, that's what they're doing. They're paying, but they're not getting it and I'm saying--

Bill Jeffers: Here's...if they were to petition...if the owners of the land basically along the red dashed line were to petition, we would have a reconstruction and bill them the portion of the cost that we determine they benefitted. So somebody with 40 acres would pay 40 times as much as somebody with one acre; it could be a whopper. If you petition...if the Drainage...if the County Commissioners petition the Drainage Board for the purpose of better draining a county roadway, then the assessment would most likely go just as the reconstruction of Maasberg Ditch went to your funding.

President Jerrel: That is ultimately--

Bill Jeffers: I found a couple other...I mean, there's some other ones in there that would never come up like the Township Trustee can petition the Drainage Board to do it if it would better drain a school yard and that's, you know--

Joe Harrison, Jr.: If I could bring up something here? There is a statute cite that I'm looking at here that talks about classification of drains, need of reconstruction, need of periodic maintenance, vacation of drains. It deals with those particular subjects, but it says a regulated drain is in need of construction when, and it goes on to say, it will not perform the function for which it was designed and constructed, it no longer conforms to the maps, profiles and plans prepared at the time when the legal drain was established or topographical or other changes have made the drain inadequate to properly drain the lands affected without extensive repairs or changes including...and it lists several things saying converting all or part of an open drain to a tile drain, increasing the size of the tile etc., then it goes on to say extending the length of a drain, deepening or widening an open drain, constructing drainage detention basins and drainage control dams, providing for erosion control and grade stabilization structures, making any major change to a drainage system that would be of public utility. Now that's a nice catchall phrase, but those particular recommendations would have to come from the Surveyor and then from there it talks about how that can then take place. It talks about 10% of the owners, I guess, petitioning this Board and then there's a procedure that has to be followed from there with public notice etc. and a hearing. But that's the one thing that I just glanced at when looking at this particular subject.

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Bill Jeffers: I think Lynn has the book that I need because she is always looking at public purchases. It's book number ten.

President Jerrel: We can't get in her office.

Bill Jeffers: I can go down in my office and get it if I have to, but, yeah, he's...your attorney is quoting from the right section there. I just can't find it right now, but the...we've used all of those items that he quoted to have a reconstruction to say why we need a reconstruction of an existing drain such as the one on Burkhardt Road that we've piped and the one we're going to pipe...continue to pipe, okay. The extension or construction of a legal drain such as this one here can only be conducted after a petition is received and the Surveyor files a report with you confirming the need for that extension and three ways it can be petitioned is by 10%...well, four ways. Ten percent of the affected landowners can do it through their attorney and we'll end up billing it back to them, the total cost of the reconstruction or construction. That's going to be very expensive individually for them. Number two, the County Commissioners can petition the Drainage Board to improve the drainage of a public roadway and in that case we could probably justify the entire expenditure being against Highway Funds and the third way is for a Township Trustee to petition the Drainage Board to extend or construct a drain to better drain a school property. That's the only three ways I've found in there. I'm sorry, I thought I had copied that to bring it down here, but what I copied was more relevant to the Maasberg reconstruction.

President Jerrel: Okay, well let's go on and let everyone speak that wishes too, but I raised that not because it's germane exactly to this issue, but it's--

Bill Jeffers: Well, while the first person is speaking, I'll go down and get that other book.

President Jerrel: Okay.

Jim Morley: My name is Jim Morley, engineer for the developer. I think the emphasis here on the issue of the regulated drain and possible extension certainly is relevant, it really has to do with what the problem was in the Baseline Road area. I have a diagram and I only have one colored version to pass along you...among you. What you see outlined in the yellow is the 750 acres of land that lies upstream of the point where the Drainage Board assumes maintenance responsibilities. There is some 750 acres upstream of that point that their water is not a part of what is currently having ditches maintained and it starts from there and what's outlined in orange is the regulated drain as it goes on down. Now because these people all live within a regulated drain area they do pay an assessment and, obviously, their assessment is not as much for maintaining the ditch down across the farm fields as it would be if you lengthen the ditch. So there would be some who say, well, if you lengthen the ditch my assessment would go up and that would cost me extra money. There would be others who would benefit by less flooding and would say, you know, I'm glad to pay a little bit more in order to do some real good. It's not doing good in my yard, the only

person I'm doing good for is the farmer downstream. So there's arguments both ways on this, but what I have outlined in red on that, the portion of the ditch or the location of the ditch that's upstream of the regulated portion, the portion that you do repair work on, and those are portions that if the Drainage Board so chooses to do an investigation that the County Surveyor's Office would be looking at to determine just exactly how much of it would be reasonable to do a rebuilding on and what would it cost to do that rebuilding. Now, if I...and so I, as an engineer, looking at the overall area and not specifically at Scott Crossing, say that, you know, yes, absolutely there should be an investigation in how to solve some of the flooding problems on Baseline Road. The reason why that needs to be looked at down in that area is that I am the one who witnessed it and you heard testimony from the neighbors about obstructions in the ditch, about trees growing in that ditch, falling in the ditch, chunks of concrete, even some county road signs that I told John about and I don't know if he found them or not, but obstructions in that ditch primarily from Korff Road to the west. Two primary problems--

President Jerrel: Is that...

Jim Morley: Yeah, this area right here is where all the trees are growing up along the ditch. This area right here opposite the pipes, the new pipes, is where some chunks of concrete has rolled down into the ditch and they're obstructing it there also. There is also down along Baseline Road along the ditch that I think perhaps the county does maintain sometime. There's an area along there where there is some mud slough off in it and is blocking some flow along there. So, you know, this is the area that one would investigate about possible extension and then if the decision is made and all of those who pay assessments, which is everybody out here, if they would all agree that they want to spend that money to do that improvement, then at that time you would create and could perhaps, if you have your majority as prescribed by law, then you could proceed to extend Pond Flat Lateral A. The one thing I did want to point out and you can see from the little green area is that, even though in our design we've gone way beyond the minimum requirements and we have, we can't solve all of the problems because with 20 acres under the initial plan and 35 total that's out of 750 acres, so even at total development we're still only 5% of the watershed. So if I held forever every drop that fell on 5% of the watershed, I couldn't actually solve the Baseline problem. So even though I have a development plan that makes it better than it is right now, I don't want to tell you that solves the problem because its significance is that it's only 5%. It's only 1/20 of the total area. So, yeah, there are other things if these people here are to be helped in their flooding, then something has to be looked at on Baseline Road. So we help, but we can't solve it because we're such a small percentage. I would like to close, and I know primarily it's that...I would like to close by asking that you do allow us to proceed to the Area Plan Commission for our review of the subdivision. We have, I believe, met every part of the county's drainage ordinance and gone beyond that and I hope in this month that we've had to kind of look into the issue we've kind of been able...everyone has been able to kind of focus and determine exactly what the

problems were out there and so that we have a clear understanding here that our proposed development is not going to be harmful to the drainage in that area. In fact, we can hold some, it's just that we can't hold enough to solve it all.

President Jerrel: Is there anyone, yes, that would like to speak? If you'll just give your name and--

Boldizar Darnay: Boldizar Darnay, I live at 1414 North Point Court. A much better presentation this time, more understandable than the last time we went through this, if you remember. I just have some questions mostly. The blue area that you talk about a 100 year storm or 100 year floodplain, this gets back to my original question whether or not that's a construction of the floodway permit as per the Corps of Engineers? I'm still not clear on that. Answer that question.

Bill Jeffers: Only if the upstream area...only if that stream drains one square mile or more upstream of the point of study, which it does not. In other words, a construction would take place in this portion of the floodplain along the north line of the property and the area that's drained by that stream is bounded by Old State Road and is less than one square mile. So the Department of Natural Resources is not involved nor is there a floodway.

Boldizar Darnay: Yeah, I'm not talking about the Department of Natural Resources. I'm wondering about the Corps of Engineers.

Bill Jeffers: Neither. Neither would be involved because there is not a floodway for this stream until it gets to the point where one square mile drains into it.

Boldizar Darnay: Okay, the other question I have, each little holding pond holds .99 acre feet of water, right?

Bill Jeffers: About one acre foot per pond.

Boldizar Darnay: Approximately. Then you decant them off one to the next to the next to the next like a waterfall essentially. Now I guess the question I've got, you've talked about a 25 year storm last meeting draining out a ten year storm level, now you're talking about a 100 year storm storage, if I understood you correctly. The .73 acre feet will hold a 100 year storm in the holding ponds? Let's assume after two years of development these ponds are full. Now what do these holding ponds hold at that point in time in a 100 or 25 year event? That's the part I don't understand.

Jim Morley: There's a small pipe, they trickle out. It's not permanent. It's a trickle drain.

Commissioner Mourdock: The .73 acres is effectively freeboard, is it not?

Jim Morley: Yeah, that's...that's the surface storage and then it trickles out.

Commissioner Mourdock: They actually hold a lot more than .73

acre feet?

Bill Jeffers: These are dry basins.

Commissioner Tuley: Yeah.

Jim Morley: Yeah.

Bill Jeffers: That's from the inverted elevation of the outlet pipe up to the freeboard.

Boldizsar Darnay: Okay, I'm just trying to understand, no problem. Does this count at all for sediment storage? Because you're going to have sediments get down in there during construction.

Bill Jeffers: That'll have to be cleaned out.

Boldizsar Darnay: Who's going to pay for that?

Jim Morley: We're way over, see that's part of that surplus...that's--

Boldizsar Darnay: Okay.

Jim Morley: We're way over even the 100 year storm, way over.

Boldizsar Darnay: Okay. Now, the thing I don't understand, I don't understand how the county works. I just mainly have questions. Let's assume you approve this, okay. How many days go by between time of getting copies of the calculations, the maps, without it being a moving target with the design changes between now and when it's submitted for final approval? How many days go by? That's one question I've got. How do they get copies of the actual submitted drainage plan and all the calculations that go with that? Can I get my hands on that? I guess that's the only questions I have.

President Jerrel: Alright, I think we need Bill and perhaps Jim to speak to that.

Bill Jeffers: It's my feeling that until the drainage plan is approved by the Drainage Board it remains the private property of the developer and is stored at his engineer's office and access to it would be by permission of the developer, Mr. Ellis.

Boldizsar Darnay: I think that's absolutely bizarre. I mean, how can you protest--

Bill Jeffers: Can I go out to your mine and look at any thing I want?

Boldizsar Darnay: What?

Bill Jeffers: Can I go out to your mining office and look at anything I want?

Boldizsar Darnay: You have no jurisdiction there.

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Bill Jeffers: That's right.

Boldizar Darnay: I'm a citizen here and I happen to live close to this. So, I do have standing, believe it or not.

Bill Jeffers: When those plans are approved by this Board they become public domain and they are stored in the Vanderburgh County Surveyor's Office and they are open to any member of the public who wishes to view them.

Commissioner Mourdock: Let me ask a question, if I may? Just to cut around the issue here. Is the developer going to have any problem in sharing those plans?

Wayne Ellis: No, none at all.

Commissioner Mourdock: Okay.

President Jerrel: Okay, do you want to come up and say that on the record?

Commissioner Mourdock: Sorry to put you on the spot.

President Jerrel: Okay, do you want to give your name so that--

Wayne Ellis: Yeah, Wayne Ellis.

President Jerrel: Okay.

Commissioner Mourdock: Thank you, Mr. Ellis.

President Jerrel: Okay, and the days. We need a discussion of the...if this is approved, the time element between now and when it goes to its next Board.

Commissioner Mourdock: If it's approved here it would go to the Area Plan Commission for the first...which is always held the first Wednesday of the month at 6:00 p.m. in the room next door here. So, that would be--

Boldizar Darnay: Next week.

Commissioner Mourdock: Yeah, September 3rd and then based on the vote there it would come back conceivably as soon as next month's Drainage Board for final approval.

Commissioner Tuley: Which would be the 22nd.

President Jerrel: So it would be September 3rd to Area Plan and then depending on what happens there it could come back here for final approval on the 22nd of September.

Boldizar Darnay: That's all I've got. I really appreciate a much clearer explanation this time. Last time I think it was kind of a zoo and it was hard to understand.

President Jerrel: You've helped all of us by asking good questions, so we appreciate it. Is there anyone else that wishes to speak to this?

Commissioner Tuley: My question was can you guys get to Area Plan by next week? I mean, is that even possible, with notices?

Jim Morley: Yeah, we're filed. It's announced that when you fail to have Drainage Board approval. They announce it at the APC meeting that it's carried to the next because Drainage Board approval was not received and so that's announced and it goes on next...the next month's agenda.

Commissioner Tuley: There'll be no other notice to these folks, right?

Jim Morley: Yeah. They have been noticed, they've all been--

Joe Harrison, Jr.: They were notified that this was tonight and that's next Wednesday.

Jim Morley: No, they do it by notification at the first meeting. In other words, the announcement, then anyone who came to last month's meeting--

Commissioner Tuley: Right, which means most of these people didn't get the notice because when it didn't get preliminary approval they probably didn't go to that meeting to get that notice.

Jim Morley: Yeah, received...they would have received notice for last month's meeting and then at the meeting they make an announcement that it will be not heard tonight--

Commissioner Tuley: Because it did not get preliminary approval.

Jim Morley: --and that would be continued to the next month's meeting, so that's the way the continuation notice is done by the Area Plan Commission.

President Jerrel: Yes ma'am.

Linda Marcoccia: Yes, I'm back again. Linda Marcoccia, 14855 Old State Road. I'm right across from the entrance. First of all, I found out about this meeting a half an hour before it started. I know several people who would have liked to be here. It was such a mess here last month they didn't understand and like the rest, this is much clearer, I can understand that, it looks good the way the property is now. Our major concern is all of the rooftops flowing. That would work fine with just land there in the flow. There are problems not only on Baseline, but a lot of people here from Peck and the land that's northwest of there is rather low. There are several lower sitting homes that are ground level, I should say. They've already got problems and there is going to be more with development. I think everybody here is aware of that, but when you put that many homes in that small of an area with already a problem, I just don't see it working. It's going to be a build up.

President Jerrel: Were you comfortable with the explanation on the holding ponds?

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Linda Marcoccia: Yeah, I understand that.

President Jerrel: Do you...can you put the word out? I mean, we don't have a legal mechanism to if anyone is interested in that meeting on the 3rd before the--

Linda Marcoccia: Well, we can try, you know, to get hold of as many people as possible. I know several of the different meetings, the preliminary meetings, there is a couple of us who took off from work and our schedule trying to make them just to see what was going on and keep people informed.

President Jerrel: Now, this is an evening meeting that on the 3rd, what time is it?

Commissioner Mourdock: Six o'clock.

President Jerrel: Six o'clock on the 3rd and this meeting will be on the 22nd and will probably be at 6:30 or 7:00. So there are two more steps.

Linda Marcoccia: Well, that's about all I have to say. I think it looks good the way it is now, but if you put that many homes on there I just don't see where it's going to work. I think you're going to just develop a larger and larger problem for a lot of people. It might not be these initial landowners. It's going to keep getting pushed.

President Jerrel: Well, it's one of the reasons we raise the issue of the existing drain.

Linda Marcoccia: Well, part of it is going to be Highway 41. If the turn in the industry right there, we're still looking at Azteca right on the other side of the highway, but a lot of this area has ponds and lakes gathering the water now and the ditches along Peck they're huge and they don't hold it. It keeps flowing and keeps washing, but when you put that many more homes and that many more roads, I just don't see where it's going to work. I think it should be addressed before it gets worse. I think...some kind of plan, because there are going to be more and more people and it's going to get worse.

President Jerrel: Well, that's the reason that we've asked that we take a look at this, because it will...it could be an assistance, but I don't want...but we'd have to hold public hearings and you would be notified.

Linda Marcoccia: Well, I just don't...I think they're pushing the problem a little farther north and the people in the north are going to be sunk, people who didn't have problems before and I don't see it going away. Everybody is aware that there is development, but that many in one place. I look across the road, I'm directly across from it, I do not see land, I see the horizon. We're talking a dump, we've got the school right there, you look just look down, it's just on a hill, so it's already a problem. That's about it.

President Jerrel: Is there anyone else that wishes to speak to the issue? Hearing none, the chair will entertain a motion.

Commissioner Tuley: I was a lone stranger on this thing last month, but I didn't speak to the issue too much and I think what's important for the public to understand when it comes to drainage issues and drainage plans, this Board really doesn't have a whole lot of choice if a plan is presented and recommended by the Surveyor and that plan meets the County's drainage ordinance. I mean, we literally don't have a whole lot of choice but to approve it. If we don't, we really have a good opportunity of getting sued because you have a drainage ordinance that says you have to meet these minimum standards. If it meets those minimum standards we're kind of locked in. This one not only, based on what my understanding and hearing of it is, not only does the ordinance require it to hold a 25 year rainfall and release it at a ten, this one exceeds or at least equals to a 100 year which is something like four times what the ordinance calls for. There are other issues that you can deal with at Area Plan and I think you heard when that meeting is and it would be very important for you to address those other issues if there's continuing issues at that Area Plan meeting. But I can't sit here, and I don't disagree and I'm not giving an approval to this development, but I have to recommend approval of the drainage plan because it meets and exceeds our ordinance. So, therefore, I move approval of the preliminary drainage plan.

Commissioner Mourdock: With just the brief words that Boldizar Darnay said I will say also, Bill, I want to compliment you and Jim Morley. I presume the two of you worked together on this, but especially Bill for putting this presentation together. It is a much clearer picture on this than I had last month and I appreciate it and having heard the motion, I will second.

President Jerrel: Alright and at this time I will call for the individual votes. Commissioner Tuley?

Commissioner Tuley: As Richard says, minority always gets to vote first, yes. We did it to him for two years, that's alright.

Commissioner Mourdock: And very well, I might add.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I will vote yes.

Commissioner Tuley: The next important meeting, though, is that Area Plan meeting and you will not get notice. This is your notice, okay?

Commissioner Mourdock: I heard Mr. Ellis say and I appreciate the fact that he is willing to make his plans available to people and I'm glad that question was asked. So any of you who do have questions, please stay in contact with him.

Boldizar Darnay: The question I didn't get answered, since he is--

Commissioner Mourdock: You need to come back to the mike a

moment.

Boldizsar Darnay: Getting a copy of that, how do I actually get a copy of it, physically? Do I go to--

Commissioner Mourdock: Jim Morley.

Boldizsar Darnay: Thank you very much.

### **Equestrian Hills - Preliminary Drainage Plan**

President Jerrel: The next item on the agenda is the Equestrian Hills preliminary drainage plan.

Bill Jeffers: Equestrian Hills preliminary drainage plan has been reviewed by the Surveyor's Office and there are still some details that Mr. Biggerstaff and myself are working out with regard to the preliminary plan and it's my feeling at this time that we're very close to resolving some of the minor differences that we have in the way that Mr. Biggerstaff approaches his calculations because he works in several other counties where they have a different method of basing the design of their drainage plans that are slightly different than our methods and before I make the recommendation I was going to ask, if there would be enough...if there is going to be a meeting next Tuesday of the Commissioners? I was going to ask for a special meeting on Tuesday, September 2nd, which would be one day prior to the Area Plan Commission meeting.

Commissioner Mourdock: There will be such a meeting. We rescheduled from the holiday on Monday until Tuesday.

Bill Jeffers: Okay, the reason I say that is because I feel very positive that I'll be able to make a positive recommendation on Tuesday, September 2nd, if you call a special Drainage Board meeting for the sole purpose of receiving that recommendation.

President Jerrel: Can you get the advertisement in?

Charlene Timmons: I can advertise it one time on Friday if that's enough to satisfy the requirements, I don't know.

Joe Harrison, Jr.: Yeah, that's fine.

President Jerrel: Well, let me...it meets the requirements and the people that were here tonight were notified.

Bill Jeffers: There may be...well, I think the representative...I think the people here tonight are representatives for the subdivision.

President Jerrel: Right.

Bill Jeffers: You may ask at this time if there is any remonstrators. I don't...I'd rather not do it this way, but I would have to ask you to waive several small items that are requirements of a preliminary plan and rather than ask you to waive those if we can do it, I'd rather--

Commissioner Tuley: Wait a week and have them settled?

Bill Jeffers: Wait a week, yeah.

President Jerrel: Have..and you've talked...have you talked to the developer?

Bill Jeffers: I've talked only to Mr. Biggerstaff and there's two developers here whose money is on the line here and I'd really like to get it moving ahead before the Area Plan Commission that Wednesday.

President Jerrel: Alright then we'll need to have a motion to postpone it until next Tuesday and a request for a special meeting.

Commissioner Mourdock: I'll move a special Drainage Board meeting for the purpose of reviewing the Equestrian Hills preliminary drainage plan on September 2nd immediately following the Vanderburgh County Commissioners' meeting.

Commissioner Tuley: Second.

President Jerrel: I'll so order. The next is to, I guess, recommend delay of this. Will we need a motion to that effect?

Commissioner Mourdock: I thought I included that, but I'll move that we delay the Equestrian Hills until September 2nd.

Commissioner Tuley: Second.

President Jerrel: So ordered.

### **Rabenwood II - Preliminary Drainage Plan / Final Drainage Plan**

President Jerrel: Okay, the next item on the agenda is the Rabenwood II preliminary drainage plan.

Bill Jeffers: Rabenwood II is a subdivision way out on the northwest side, very near St. Wendel, Indiana and basically all they're doing here is adding three building lots that I've outlined in red, I believe. The existing houses are in green, there's two of them. These are huge lots; 2.5 acres to 5 acre lots. At this time I don't contemplate any driveway pipes being needed to access county roads. Motz Lane is one of the county roads. St. Wendel Road is the other one. I don't believe they need any driveway pipes to access those accepted county roadways. The increase in runoff will either be a...two percent more or two percent less than currently, depending on how much lawn is established. Right now there is a lot of trees out there. If they were to build their houses without tearing down one tree there might be two percent greater runoff. If they, of course, level an area for a lawn and install a lawn, there might be two percent less run-off. I think the drainage...I'm recommending the Drainage Board waive the requirement for detention and approve the plan as presented by the engineer and even further to approve it as a final plan. We have a...we got a note on there after the first presentation that the green area

outlined down through the middle of it is a natural watercourse and that the homeowners are going to preserve that in an unobstructed manner for all to use and really that's all it needs for a final drainage plan.

President Jerrel: Are there any questions or anyone that wishes to speak on this?

Commissioner Mourdock: I'll move approval then of the Rabenwood II drainage plan as both a preliminary and final plan.

Commissioner Tuley: Second.

President Jerrel: I'll call for the vote, please. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: You know he was pointing that he would go first!

Commissioner Tuley: He wants to take the easy one.

Commissioner Mourdock: I'll go first!

President Jerrel: I was going to do it, but I didn't have the heart!

Commissioner Tuley: Thanks, to the both of you.

Commissioner Mourdock: I'll vote yes.

President Jerrel: Alright and I'll vote yes. We're getting kind of silly here at the end of the evening.

### Old Business

Bill Jeffers: Under old business, a couple of months ago Mr. Al Buck came up here and he had completed...he thought he had completed a drainage basin at the intersection of Knob Hill Road and Ward Road and I had a few items that I thought needed to be addressed. Some silt was still in the pipe...had built up in the pipe and was partially blocking the outlet and some erosion along the side banks needed to be controlled a little bit better. At this time Mr. Buck has made substantial improvements to it and although there maybe some ongoing problems until a year or two goes by and that grass gets really well established. Mr. Buck has assured me and given me a gentleman's promise that he and his son will continue to maintain it as they have for the past year and a half. His time is running out on recording that sub and at this time the Surveyor's Office recommends final approval of Mr. Buck's replat of Outlot Number 1, Knob Hill Subdivision and would recommend that you allow him to go forward with acquiring building permits with the understanding that Mr. Buck and his son are going to monitor that drainage basin and keep it in operating condition until they turn it over to the property owner that buys that lot.

President Jerrel: Are there any questions?

Commissioner Mourdock: Yeah, Bill, as I recall your comments about that structure, I remember you talking about more than just having it sodded. I thought your exact words were, it doesn't work, that structure didn't work, because basically the elevation of the outlet pipe, and I don't recall the details, I'll have to sit here and think about it, but it was a whole lot more than sodding or getting the grass to grow and now it sounds to me like you're saying--

Bill Jeffers: I said it didn't meet the minimum standards of the County Drainage Ordinance and one of the reasons was that the pipe was almost half full of silt and it was causing water to stand back on the--

Commissioner Mourdock: But wasn't there a question about the elevation of the discharge pipe? It seemed to me, like there was an inflow pipe and discharge pipe that are effectively at the same elevation and you had a pond there that wasn't really going to fill up. It was just having water run from one pipe on one side to the pipe on the other side.

Bill Jeffers: No, I think there's a 15 or 18 inch pipe coming in and 12 inch pipe going out and there's a positive flow of water from the incoming pipe along the channel liner. He installed a channel liner of concrete blocks and the water does flow along there.

Commissioner Mourdock: Okay, so the only way then that the pond will fill as a pond is if you get more than whatever volume it takes to fill a twelve inch pipe?

Bill Jeffers: Right. But that's the calculations that we approved under the design for that pipe.

Jim Morley: It turned out that it was the silt that was causing the water to come back. It didn't do it...we checked the grades and it was the pipe that was causing the pond...the problem was the water was backing in and wouldn't drain out so it could be maintained and it was...we checked the pipe and grades and the pipe grades were okay. He got it corrected.

Commissioner Mourdock: Okay.

President Jerrel: Are there any other questions? I'll entertain a motion.

Commissioner Mourdock: I'll move approval of the outlet pond for Outlot Number 1 for Knob Hill Subdivision.

Commissioner Tuley: Joe's hollering replat over there, so I think someone has a replat of Outlot--

Bill Jeffers: Replat of Outlot Number 1, Knob Hill Subdivision.

Commissioner Mourdock: Okay, my motion is so amended.

Commissioner Tuley: I'll second.

President Jerrel: So ordered. Do we have to call for an individual vote?

Commissioner Mourdock: No.

President Jerrel: Okay. That's it.

Bill Jeffers: I don't know if there is any more old business.

**New Business**

President Jerrel: Is there anyone...any new business?

Eldon Maasberg: Yeah, I've got some.

President Jerrel: Okay.

Bill Jeffers: Can we do a couple of other things first?

President Jerrel: Sure, if you don't mind, Mr. Maasberg?

Eldon Maasberg: No, go ahead, let him finish.

Bill Jeffers: Okay, I have an original copy here for the Recording Secretary. Okay, as you know Big Creek Drainage Association is the prime...is the contractor for the annual maintenance of Pond Flat Main and Pond Flat C and they had a meeting that was attended by the Big Creek Drainage Association members Darrell Rice; Jim Josey, from our office; Wayne Anderson, a property owner; and Jim McDonald, Mr. Anderson's attorney and what has happened is there is an area of Pond Flat Main just downstream and kind of northwest of Bixler Road where during the last couple of torrential downpours the ditch has jumped out of that bank and is trying to cut a new channel across country across Mr. Anderson's property and then it would go across Darvin Elper's property and on downstream it would damage other people including Adolph Blankenberger and the Schmidt farm and a few other farms. It would cut a new channel and all in attendance were in agreement that this was an emergency situation and Big Creek Drainage Association is proposing to hire Blankenberger Brothers as the subcontractor. Blankenberger Brothers submitted a bid of \$5,000.00 to do the work necessary to repair the ditch as well as do some preventative work and reseed the disturbed area after the repairs are made and the County Surveyor is recommending that this emergency work be done as soon as possible. Pond Flat Main is account number 234-029. Estimated year-end balance is \$6618.09. The requested funds are \$5,000.00 and after payments are made we estimate a year-end balance of \$1618.09.

Commissioner Mourdock: Just a procedural question. I presume since this is...since the Surveyor's Office is effectively asking that this be declared an emergency that would forgo any normal bidding procedures?

Commissioner Tuley: That's the key.

Commissioner Mourdock: Okay.

President Jerrel: Alright, you've heard the recommendation. Is there a motion to appropriate \$5,000.00 from 234-029, Pond Flat Main?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: Do you have a question?

Joe Harrison, Jr.: Again, I would, based upon the fact that this is an emergency, so--

Commissioner Mourdock: Just for the record, I would accept the Surveyor's recommendation that the work on Pond Flat Lateral C be described as an emergency.

President Jerrel: This document will be entered into the record.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: Our base in determining that this is an emergency is the possibility of impending extreme hazard to downstream properties, including improvements to those properties such as barns and silos. Okay, we have another site on Pond Flat Lateral C just east of the bridge on outer Darmstadt Road, previously known as Mosquito Road. The condition exists on the south bank. I can get into a long winded description of all this, but basically it never gets enough sunlight. The north bank gets plenty. The south bank never gets enough sunlight, grass doesn't properly grow on it. It's subject to staying frozen a lot longer than the north bank so forth and so on and then when it thaws out it heaves around and we've always had problems with this site. We're experiencing a problem right now where we need to repair a 1/4 mile of that bank. This was also discussed at the same meeting. Big Creek Drainage Association is the prime contractor. They have obtained a bid of \$1,840.00 for the work that needs to be done. The County Surveyor has determined that there is only \$1,791.89 available and we are only willing to let go of \$1,700.00 of that, so that we would have a \$91.89 balance at the end of the year. If it's the Board's pleasure at this time, the County Surveyor would recommend that \$1,700.00 be released from Pond Flat Lateral C for the work to be done and whatever Big Creek Drainage Association can get done for that amount of work would be whatever they could get done. We're not willing to pay the entire \$1,840.00.

Commissioner Mourdock: Are you saying Bill, this is part of the same emergency situation?

Bill Jeffers: It was determined by the Surveyor that this would fall under the same category. The bank is caving in and it's...what it's doing...the extent of the emergency would be that it's taking land from John Rexings' farm field and washing it into the ditch. It's damaging his subsurface drain tiles that empty into the ditch and it may, in fact, eventually erode behind the abutment wall of the new bridge that the County

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Commissioners installed about three or four years ago, a new concrete bridge that was installed at that point. It's in danger of going behind that abutment with the erosion.

Commissioner Mourdock: I'll move approval of the appropriation from account number 234-032 in the amount of \$1,700.00 to the Big Creek Drainage Association.

Commissioner Tuley: Second.

President Jerrel: That is also because of the recommendation by the Surveyor's Office that there is an emergency existing and I'll so order.

Bill Jeffers: In other new business we have, and I'm sorry to put you off Mr. Maasberg, but we have others wishing to speak down here and I'm not going to take up that time, I'll let others do that. We have a report from Bernardin Lochmueller & Associates transmitted both to the County Surveyor's Office and the County Engineer's Office. It's a hydraulic report on Morgan Avenue which is State Road 62 at Cross Pointe Boulevard which will be the access...the proposed access from Burkhardt Crossing, across Kelly Ditch, across the railroad tracks and into State Road 62 immediately across from the exit ramp from I-164. I believe you all are familiar with that. This is a project that I believe comes under TIF funds.

President Jerrel: No.

Commissioner Tuley: Not yet.

Bill Jeffers: May come, it's being discussed or something.

President Jerrel: It may not. It may just be paid for with real money.

Bill Jeffers: Real good money, okay.

President Jerrel: It'll be a lot cheaper.

Bill Jeffers: What we asked for was the...the County Surveyor's Office, because it's a regulated drain that we're crossing, asked for the largest possible opening in a single box that we could find or that the consulting engineer could design and he has given us four options. I won't go through it, it's all right here to be made part of the record. We have looked at these four options and Mr. Jim Farney did this for Bernardin Lochmueller. He went so far as to plug in what HERPICC says is a 100 year storm. This is like 524 cubic feet per second to 590 cubic feet per second and that's derived from something called a USGS Regression Equation and then he plugged in an emergency factor taking in some more ground that might possibly flow into this watershed and some other conditions that may have not been taken into account because of alleviated roadways, this, that and the other and he plugged in a figure of 649 cubic feet per second which is quite a bit more and he shows us what would happen under each of these conditions whether we use a precast rectangular box or what's called a conspan, which is kind of like a arched precast box, and in order to move this ahead what

John Stoll and I have talked about is that each one of these four options will work well under certain conditions, but Mr. Farney is suggesting things like we lower the ditch grade by a foot to get more waterway area or leave it as is this, that and the other and we would like additional time to pick one of those. All four will work, but we want to pick the best option to get the best bridge for the money, because the difference between the box and the arch is like \$30,000.00, okay. So we want to make sure that we are getting \$30,000.00 worth of drainage if we go with the arch, okay. I would like to make one comment, I mean, I'm recommending that we accept this report and that you allow the project to go forward so that the developer can go to the railroad, go to the highway department and continue his permitting process and let John Stoll and I select one of these four boxes, but I do want to make one comment along with that recommendation and that is that we, both the County Engineer's Office and the County Surveyor's Office, strongly encouraged the developer of Burkhardt Crossing to elevate his roadways to or above the 100 year flood elevation and he resisted that and eventually he prevailed and those roadways were built about a one half foot below the 100 year flood elevation. What this hydraulic report is really all about is to show us what will happen during a 100 year storm when the water comes hurling down Kelly Ditch and hits this box and what will happen is that the headwater created behind this box during a 100 year storm may inundate portions of the streets anywhere, depending on which one of these options we choose...do we got tape...may inundate it anywhere from like six tenths of a foot to one foot and nine inches deep and had the developer...well, you get what I'm saying there. I won't say much more. That's why we want to take a little extra time because we asked the man to build the streets to the 100 year flood elevation. No structures will, you know, no buildings structures will be adversely affected. They are all two feet above the 100 year floodplain, but there may be portions of the street that would be inundated and we want to find out whether it would be worth spending that extra \$30,000.00 to keep that inundation to minimum.

President Jerrel: Well, I have a question--

Charlene Timmons: Can I change the tape real quick, please?

President Jerrel: Sure.

**Tape change 8:30**

President Jerrel: I have a question. Then we're going to be asked to accept the streets?

Bill Jeffers: The streets have already been constructed.

Commissioner Tuley: They're already done.

President Jerrel: I'm saying, we're going to be asked to accept the streets and then keep it in repair if it goes under water?

Bill Jeffers: Correct.

Commissioner Mourdock: Was his one of the drainage plans or, wrong choice, but maybe the right choice, was part of his plan to use the streets as a drainage way in case of a 100 year event?

Bill Jeffers: No.

Commissioner Mourdock: Occasionally we have seen that where a road is used as a drainage for that type--

Bill Jeffers: Yes, and I've been asked by the County Surveyor not to do that any longer. I've been asked by the County Surveyor to encourage the developers to get all their streets at or above the 100 year flood elevation and that's been going on for about three or four years now and we didn't prevail in this particular situation.

John Stoll: That's one of the things that we could address if we get some new road standards, to put that in there specifically, because right now we don't have a specific requirement that says that they have to be elevated to a particular elevation.

President Jerrel: Just another point of information, Mr. Jeffers has submitted the questions that he was interested in having evaluated and that evaluation is being done and should be back to Mr. Jeffers soon, on Burkhardt. Just for your information.

Bill Jeffers: Oh, right, the questions that we forwarded. Right, I'm sorry.

President Jerrel: Yeah, I just wish...I was just, you know--

Bill Jeffers: Thank you.

President Jerrel: I want you to know that's still happening.

Bill Jeffers: I'm sure it is, thank you.

President Jerrel: Have we about talked ourselves--

Bill Jeffers: Giddy?

President Jerrel: Yeah.

Bill Jeffers: I have.

President Jerrel: Okay, I'd like to ask now if--

<b>Blue Claims</b>
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Bill Jeffers: What I've also done is presented to the Board claims for payment on maintenance.

Commissioner Mourdock: I'll move approval of the blue claims.

Bill Jeffers: Right, they're all properly executed and then Mr. Maasberg?

President Jerrel: Alright, is there a second to that approval?

Commissioner Tuley: There sure is, I second.

President Jerrel: Okay, so ordered.

**Any Group or Individual wishing to address Drainage Board**

President Jerrel: Mr. Maasberg?

Eldon Maasberg: My name is Eldon Maasberg. I got a whole bunch of these in Maidlow Ditch and they're floating down from up north, they've made it down into Buente Ditch and into Pond Flat Ditch and hard telling how much further. It all started this spring.

Bill Jeffers: What is it?

Eldon Maasberg: A tire.

Commissioner Tuley: A piece of a tire.

Commissioner Mourdock: It's the side wall of a tire.

Eldon Maasberg: Somebody has been cutting the side wall off of them. You've got pieces of these and the tire rim, or what you call the tread, all coming in above me somewhere and the creek is just full of them. I think I get about a truckload of them between my length of ground alone.

President Jerrel: I wonder, is it somebody that's trying to shred tires?

Commissioner Mourdock: It may be that someone tried an aborted effort to use those for slope stabilization. I have seen where they have used tires like that then they basically weave cables through them, put them out horizontally and the hope the grass starts to grow between them.

Eldon Maasberg: I think they were dumped in a wash out or something in that order.

Commissioner Mourdock: That's another possibility.

Eldon Maasberg: Like I said, I've got a bunch of them. I don't know what you want to do with them. I don't feel like...there's too many of them in there just to do it for nothing. Right now we're at the bridge that I got going across Maidlow Ditch, which we asked Biggerstaff permission to build, and the footings are washing out and we jacked it up and I'm hoping like heck it don't rain tonight so we can pour concrete in the morning to build it level again and there is a tree laying against it and you know, the guy that dumped these is...eventually we might have to do like Bill has talked about (inaudible). Well, it's going to get mixed in the dirt then. It would be a lot simpler if you want to pass us a way of coming up with taking them out now before they get much further down the creek or they will be mixed in--

Commissioner Mourdock: Are they on the county right-of-way?

Eldon Maasberg: Yes, they're in the water flow.

Commissioner Mourdock: Okay.

Eldon Maasberg: Down in the bottom and like I said, most of them have come in--

Commissioner Mourdock: Describe the length of ditch where these are again, Mr. Maasberg.

Eldon Maasberg: Well, just in my soil is about three-fourths of a mile long, but it's coming above me and it's below me. It could be as much as--

Bill Jeffers: Is it down below Bender Road, between Bender and Big Creek?

Eldon Maasberg: It's coming above Bender Road, yeah.

Bill Jeffers: So, where you found them was down below Bender Road--

Eldon Maasberg: Right, half mile from Buente Ditch and Maidlow Ditch.

President Jerrel: Well, how are we going to explain this to describe it to the garage?

Commissioner Mourdock: Yeah, that's what I'm thinking.

Bill Jeffers: Why don't we send the County Ditch Inspectors out to locate it exactly and possibly find the source of it?

President Jerrel: Then draw them a little map so that they know.

Bill Jeffers: I think we might have to hire some contractors to do it.

Eldon Maasberg: I have seen them--

Bill Jeffers: It's going to be way off from the (inaudible).

Commissioner Mourdock: But it is in the county right-of-way?

Bill Jeffers: County's...in the county's district.

Eldon Maasberg: It's in Buente Ditch.

Bill Jeffers: It's in a legal drain.

Eldon Maasberg: In the legal drain of Maidlow Ditch.

Joe Harrison, Jr.: It may be hard to get to with our people though.

Eldon Maasberg: Well, right now these...the worst of it is right like he said, Bender Road down through mine. I've got a hunch I know about where they're at, but I haven't seen them for myself so I'd rather not say.

President Jerrel: Okay, well, do you...does that make sense to you?

Commissioner Tuley: Don't say for the record, just let Bill know where you think they're coming from and his crews will go looking for them.

Bill Jeffers: I'll send Jim Josey and Don Scheller out. You show them where they're at and where you think they are coming from.

Commissioner Mourdock: Okay, very good.

Eldon Maasberg: I do know that they're further on down because I've been seeing them at the end of the road.

Bill Jeffers: Well, hopefully they're washed on down in Gibson County and we'll be done with it.

Eldon Maasberg: Well, or they might (Inaudible) a bridge.

President Jerrel: Okay, is there any further business to come before this body?

Commissioner Mourdock: I'll move adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting adjourned at 8:40 p.m.

**Vanderburgh County  
Drainage board  
August 25, 1997**

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***Those in attendance***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Gary Tucker  
Bill Jeffers  
John Stoll  
Jim Morley  
Boldizsar Darnay  
Linda Marcoccia  
Wayne Ellis  
Eldon Maasberg  
Others indentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Special Drainage Board Meeting  
September 2, 1997**

The Vanderburgh County Drainage Board met in session this 2nd day of September, 1997 in the Commissioners' Hearing Room of the Civic Center Complex at 7:30 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: We'll call the Vanderburgh County Drainage Board to order.

**Equestrian Hills - Preliminary drainage plan**

President Jerrel: There is one item on the agenda and that's the Equestrian Hills preliminary drainage plan.

Bill Jeffers: I have a plan here that has got a lot of information on it that may not be of any interest to the Board members, therefore it may look cluttered. Basically, Equestrian Hills is a project made up of, I believe, seven lots ranging in size from five acres to over seven and a half acres. I guess you would call this like an estate homes project. I'll give you a chance just to look at it. He has located the approximate positioning of the seven homes that are going to be built with the driveways coming off of a single roadway. The roadway he is constructing enters onto State Road 65, which is also known as Cynthiana Highway, at a point a couple or three hundred feet south of Mesker Park Drive and a few hundred feet north of Cynthiana School. It's on the west side of the road and generally it is between Mill Road on the south and Number 6 School Road on the north to give you an idea where it is at. I wanted to tell the Commissioners that I appreciated your patience and indulgence in having a special Drainage Board meeting and also appreciate the developer allowing the engineer to work with me another week. As I said last week, it was very close to complying with our requirements, but I believe this is the first plan that this particular engineer has turned in to Vanderburgh County since our ordinance and it now...after our review of his newly submitted plan, the County Surveyor's Office would like to recommend that the Drainage Board approve the preliminary plan for Equestrian Hills. It substantially meets all the requirements for a preliminary plan and a few very minor details we'll be working with the engineer on to include in the final drainage plan, but what he has here is sufficient for a preliminary drainage plan. Like I said, we appreciate him working with us one more week to get to this point.

President Jerrel: Are there any questions?

Commissioner Mourdock: None here.

Commissioner Tuley: This will allow them to go before Area Plan tomorrow night?

Bill Jeffers: Yes, sir.

President Jerrel: Okay, is there a motion?

Commissioner Mourdock: I'll move approval of the preliminary drainage plan for Equestrian Hills Subdivision.

Commissioner Tuley: Second.

President Jerrel: Now, do we vote individually on this?

Commissioner Mourdock: No.

President Jerrel: Okay, so ordered.

Bill Jeffers: This plan also contains a lot of information that would be real helpful to the Soil Conservation Service because he went ahead and gives a lot of details of the erosion control methods that he intends to use. This is pretty much an erosion control plan as well. It's a real nice pamphlet...or a booklet that he put together.

Commissioner Mourdock: See you tomorrow night at APC. Motion for adjournment.

Commissioner Tuley: So moved.

President Jerrel: So ordered.

The meeting was adjourned at 7:35 p.m.

**Those in attendance:**

Betty Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Bill Jeffers  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Betty Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
September 22, 1997**

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Vanderburgh County  
Drainage Board  
September 22, 1997

The Vanderburgh County Drainage Board met in session this 22nd day of September in the Commissioners' Hearing Room of the Civic Center Complex at 7:05 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I'd like to call the Vanderburgh County Drainage Board to order.

**Approval of the Minutes**

President Jerrel: The first item on the agenda, we have two sets of minutes. One, our regular meeting of the 25th of August and the September 2nd special meeting and I'd like a motion.

Commissioner Mourdock: I'll move approval of the August 25, 1997 Drainage Board meeting minutes.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Commissioner Mourdock: I'll move for the approval of the special Drainage Board meeting that was held on September 2, 1997 as well.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Equestrian Hills - Final Drainage Plans**

President Jerrel: The item on our agenda under Action would be the final drainage plans for Equestrian Hills.

Bill Jeffers: Equestrian Hills...okay the name of the project is Equestrian Hills and it's right there pretty much across from Cynthiana School on State Road 65 and as you know, it's seven large lots ranging in size from about five acres to about nine and a half acres and you've seen the plat. These plans have a whole lot of lines on them, I don't know if it'll do you any good to look at them or not, but you've seen the plat. Basically, I indicated at the last meeting that we were looking for some final details as well as waiting for unaccepted...a recommended acceptable set of street plans, which I believe you received at your Commissioners meeting of this date. Those street plans are reflected in the drainage plans as are the details we asked for from the developer's engineer and the only item I want to address at this time before making the recommendation, is that your county drainage ordinance requires certain specifications for constructing an open channel. Basically, those specifications and requirements are aimed at providing channels that are stable when they're turned over to the individual property owners in residential lots, so that the homeowner can maintain those channels with common yard maintenance equipment. That's why we have those requirements in there. For example, laying back an earthen channel with three to one side slopes so it can be mowed, or if it's steeper, using riprap to stabilize it. Occasionally, we have developers who want to leave creeks in their natural condition. An example of that would be Bill Wedeking...somebody help me with the name of his development out there.

Unidentified: Browning Road Estates.

Bill Jeffers: Yeah, Browning Road Estates has always asked that his be left in the natural condition. That works to the benefit of wildlife and it gives a rural natural look to the development. But as you know, occasionally, from time to time, you'll have a property owner complain about the...down the road, they'll complain about the condition of the creek and say that it's cutting out around this tree and eating into his yard blah, blah, blah. So, I have prepared this letter or memo to explain our feeling on it and rather than read it word by word, just enter that in the record. But the bottom line, what we're saying, is if this developer wants to leave all or any part of the waterways in Equestrian Hills in their "natural condition", we would ask the developer to provide a document of some sort which would place the entire responsibility not only for the maintenance of the drainage facilities which is already placed upon the homeowner and the covenants and restrictions and on the plat, with the notice that the ordinance requires to be on the plat, but also, a document that would hold your Board and the County Surveyor harmless from all claims for losses, damages, or cost arising out of anything that would happen associated with events or caused by the conditions which, for lack of a better word, are substandard to the requirements of your drainage ordinance.

Commissioner Mourdock: Bill, excuse me with a question. I understand your recommendation. Are you saying that this would be a document that's going to each one of the property owners who would be acquiring that property, or are we looking here at something like a...help me out, not a Neighborhood Association but a--

Bill Jeffers: Homeowner's Association.

Commissioner Mourdock: Homeowner's Association?

Bill Jeffers: Both. I think it should be provided to each lot owner individually and provided to the Homeowner's Association that's going to maintain whatever facilities they are set up to maintain.

Commissioner Mourdock: Okay, if in the future then, you mentioned Wedeking's Browning Road situation where he leaves them natural. In the future would you be saying the same...or asking the same thing of him then?

Bill Jeffers: I'm going to ask this of everyone where we feel there is a necessity for a document such as this.

Commissioner Mourdock: So it may just depend upon the state of the natural stream, whether you'd ask for it or not then?

Bill Jeffers: Well, in this particular...probably in all fairness, it should be asked of everyone. But in this particular instance, in the last two paragraphs, I'm saying that this recommendation, this particular recommendation, is made due to a severely eroded gully along the west line of this project, because the developer has proposed and has set out on the plat, a walking path intended for the riding of horses and taking a hike on foot. I've walked along that particular gully and feel that hikers or horseback riders may be exposed to some danger if that embankment were unstable. In other words, your Board says yes, we approve your drainage plan, the gully stays in the condition that it's in and a horse steps on a loose piece of earth that's eroded or undermined, falls down the

gully and breaks it's leg. I don't want this Board or our office to be responsible for that simply because we recommended a plan that according to your drainage ordinance, that embankment should have been revetted with riprap and stabilized because that's what the ordinance says.

Commissioner Mourdock: I just want to make sure we're as consistent as we can be and, you said it a moment ago, that you...you kind of said you'd look at them case by case and then you said probably we ought to do it with all of them. The natural drainage ways.

Bill Jeffers: Well, it's the same as saying that we ought to make all of them adhere to the ordinance by the letter and lay those banks back three to one or revett them with riprap. But, in a case by case situation the Board is able with their discretion to wave that requirement. So yes, we look at them on a case by case basis, but that's because each one is its own case and in this case the developer is asking you to waive the requirement or several of the requirements of section 1200 of the drainage ordinance. We also make the recommendation that there be a document holding you harmless and the Surveyor harmless from future loses or damages from this waiver because about three of the waterways serving this project are either part...somewhat eroded or substantially overgrown with trees and other vegetation which may now or in the future deflect storm water and cause continued erosion or eventual deflection of the course of the water and that might...that may cost some loss of usable land or possibly damage improvements near the waterway.

Commissioner Mourdock: Okay. Joe, by way of document to get to what it is that Bill is suggesting and I don't necessarily have a problem with what he is suggesting, I just want to see if there is a way that we can do it in a fashion that will work given that...I know with this particular subdivision, it's got very large lots to it and the Homeowner's Association might not be necessarily applicable here. Would such a document, covenant, whatever it would be? Would it be going title to title?

Joe Harrison, Jr.: I'd be interested in hearing what they want to say. I think that something could be worked out. I'm not to sure it necessarily needs to go title to title. I'd like to hear what they want to say. Certainly it ought to be on the plat but, I understand what the Surveyor is requesting. I'd be interested in hearing what the developer or the developer's counsel would state with respect to Mr. Jeffers recommendation.

President Jerrel: Is there someone here that would like to speak at this time?

Unidentified: Yes, I'll speak for the developer.

President Jerrel: Okay.

Tom Terrell: I'm Tom Terrell, attorney for the developer. What I have prepared and on short notice and I'll pass a couple copies around, it's a form of letter which I think the developer is willing to sign and I think Bill has seen that. I don't know if he has had time to read it, but I don't have too many copies. I'll give Joe one.

Commissioner Tuley: We can share.

Tom Terrell: Let me just read it because you can kind of...the first paragraph says...this is coming from the developers and addressed to the Drainage Board that the developer of this subdivision located in Vanderburgh County:

"Please consider this letter our firm's request that the Board waive any existing requirements to improve waterways within specific easements in this subdivision to meet Vanderburgh County standards."

In other words, we're asking you for a waiver of those requirements. Then in the second paragraph:

"The developer agrees to provide restrictions and covenants."

We have restrictions and covenants that have not yet been recorded, we can add this language.

"That all existing waterways on the respective lots shall be left in their natural condition and any future costs of maintaining the waterway shall be the responsibilities of the lot owners and further, that Vanderburgh County shall have no responsibility for the future maintenance of said waterways within the subdivision."

In other words, we'll take all the responsibility from the county for the maintenance of those waterways. We'll put it in the covenants so that a lot purchaser when he records his deed, he accepts these conditions. Let me just briefly read the two conditions that I drafted this afternoon. Number one:

"By recording the deed to this lot in this subdivision, each lot owner acknowledges notice that the drainage waterways may not be constructed to Vanderburgh County standards and that said lot owner waives any existing requirements that the waterways be constructed to Vanderburgh County standards."

In other words, then a lot owner can't come in and say we want these waterways built to standards. Then the second paragraph:

"All drainage and waterways in this subdivision shall remain in their natural condition."

In other words, they're required to leave them alone, the way they are.

"Any future costs of maintaining the waterways on each lot shall be the responsibility of the lot owner and Vanderburgh County or the subdivision developer shall have no responsibility for future maintenance."

So we would leave you and also the developer from future maintenance of those waterways. The developer is willing to sign that or some version of that.

President Jerrel: I have a question, Bill, I guess to you and perhaps, Tom, you can answer. If what we see, and I'm relatively new from this perspective, but what we see, is if all homeowners sign that and then homeowner "C" simply doesn't do it--

Tom Terrell: Doesn't take care of his?

President Jerrel: --right, and it affects...doesn't affect him, but it effects "A" and "B" homeowner's--

Tom Terrell: Okay.

President Jerrel: --then their recourse is only to sue, I guess, if they don't, but that's...is that what essentially happens?

Tom Terrell: If my neighbor does something on his and builds a drainage ditch and cuts a deep...and channels water on to me, I have a claim against him. If it's the natural flow of water, as it was when we both came, then if I'm downstream, I live with that. I think that's the law.

Commissioner Mourdock: Subject to the nuances of last years drainage law. It turns this Board into a jury.

Tom Terrell: Yeah.

President Jerrel: Yeah. What do you think, Bill?

Bill Jeffers: Well, I understand what the desires and the intent...intents of the developer are and in some cases I believe they are well founded because he wants to preserve the natural beauty of this setting or enhance it. In other...looking at it another way, I think he wants to save some money. Either one of those intents or purposes are well within the parameters of acceptability as a...you know, in our economy. But I'm not really concerned with what the developer wants, I'm more concerned with protecting this Board and the County Surveyor's Office against any future liability because of your granting of a waiver of the provisions of section 1200 of this code.

Commissioner Mourdock: Have you seen the letter that he just presented us?

Bill Jeffers: Yeah.

Commissioner Mourdock: Okay, do you feel that does not do that?

Bill Jeffers: That doesn't go as far as what I'm afraid things may go. Because you asked in the ordinance to use an equation to make sure that the channels are sufficient. You're going to waive that. The minimum depth of the channel should be a minimum of one foot. You're waiving that. The minimum width should be a minimum of one foot. You're waiving that. The channel grade should be such that the velocity in the channel is high enough to prevent siltation. You're waiving that. Low enough to prevent erosion. You're waiving that. The velocity of 1.5 feet per second should be avoided because siltation will take place. That's not being addressed now. We can go on and on and on. But the bottom line is, is that--

Commissioner Tuley: Bill as you...I'm reading this and I'm hearing what you are saying. It sounds like you may have left a sentence or two out of your...

Bill Jeffers: You know, it does say that the Board will consider other methods of channel lining and so forth, on a case by case basis. I'm trying to find this one particular sentence that...

"The developer shall transfer ownership of the channel only in stable condition."

Okay and what I'm saying is, is that in the future, if someone stumbles down one of these unstable banks and injures themselves or a horse or another piece of property is damaged and their lawyer comes in here and holds up line number 12.17 of your code and says why? I want you to be protected. I think it's just as simple as that. Then they went a step further and there's a letter just now and said that an owner must leave it in its natural condition and cannot alter that natural condition. I believe that's what I understood Mr. Terrell as saying is that one of the restrictions would be that an owner of a piece of property across which a channel flows cannot alter it from a natural condition. So there, I'm not really concerned again, with what the developer wants. I'm concerned about your Board accepting a condition that limits a property owner's right in the state of Indiana to the highest and full use of his property which is guaranteed by law. If he starts to experience some erosion, it cuts out around a tree that's a natural obstruction in this natural channel and it starts eroding towards his barbecue pit and he starts remedying that with riprap or whatever and the guy across the ditch on the other lot says hey, he's throwing water back over on me, then the covenants and restrictions have prevented that. So I'm not really not concerned about all these other things. The only thing I really want to protect is this Board and the County Surveyor being held harmless from losses, damages, or other costs arising out of occurrences associated with events or caused by conditions which they're asking you to waive.

Commissioner Mourdock: Okay, let me ask a hypothetical question here, two of them. Let's assume that this piece of property with its natural ditch was not being subdivided and nothing, I mean, it doesn't come before this Board and it just, it happens okay--

Bill Jeffers: Right.

Commissioner Mourdock: --somebody is riding a horse out there as you mentioned, the water has undercut the tree and it falls over. They never came before this Board because they never needed to. The water undercuts the tree, the tree falls over, hits the horse, kills the rider what have you. That's scenario "A". Scenario "B" is, we act to waive the law, if you will, our own ordinance to allow it to be in the natural condition and that exact same thing happens. Are we any more liable than we would have been Joe, previously?

Joe Harrison, Jr.: I don't see it. We have to have a duty with respect to the particular ditch or the drainage area and I don't see where we would have a duty.

Commissioner Mourdock: So, we have not under the ordinance, the fact that's this has come before us, the Drainage Board, does not imply that we have a duty to change something from its natural condition?

Joe Harrison, Jr.: What Mr. Jeffers, given the fact that this is being subdivided or sought to be subdivided, what he is suggesting and what they are consenting or agreeing to do with respect to the restrictions and covenants and putting language in there that says that they will hold the county harmless, I think, is prudent for the county in this situation. But I don't see where the county needs any more protection than what is suggested right here, none whatsoever. I think this is sufficient and it would be great if we could get others down the road that seek a waiver to get something similar to this.

Commissioner Mourdock: So that if they seek a waiver, they have the same release and hold harmless--

Joe Harrison, Jr.: Sure.

Commissioner Mourdock: --provision?

Joe Harrison, Jr.: Because this is going to be recorded and it'll be notice to all that if, in fact, something does happen down the road that this Board, because they gave a waiver, will not be responsible in any way. I'm not too sure we'd ever be responsible at all anyway. But this is further protection for the county and I think this is prudent and I think it's something you ought to consider.

Bill Jeffers: I'm just being a little bit over reactionary because--

Commissioner Mourdock: You've dealt with as many lawyers as I have?

Bill Jeffers: No, no, no, it really has nothing...no, it has nothing to do with the lawyers. It really doesn't.

Commissioner Tuley: Sure it does.

Bill Jeffers: In this particular...in this particular case, with seven lots, I wouldn't foresee more than ten or 15 people showing up in an angry audience and prolonging your meeting 30 minutes. Whereas, in a more dense development, something such as this might generate 60 people that would take three hours to get rid of. That's my whole point of view here. I just want a piece of paper that when that first person calls your office and Tony transfers it to our office, I can say...I can read that piece of paper over the telephone and say don't bother coming down here.

President Jerrel: Well, would you--

Bill Jeffers: Having said that, and you know, if this can be resolved all the other details have been provided, both the street plans and the drainage plans, and our office is willing to recommend a positive recommend...or make a positive recommendation for the final drainage plan for Equestrian Hills.

President Jerrel: Would...we have one gentleman that wants to speak just a minute. If you want to come and give your name and then we'll talk about this.

Jim Biggerstaff: I'm Jim Biggerstaff. I've done drainage for close to 35 years. What I have a problem with the policy in your ordinance, you have a pre existing condition, Bill. You have trees. You have a creek here. You have a difference in elevation of about 45 feet. You go in there and free clear all these trees and all these drainage ways to your ordinance, do you know what it's going to do to the person downstream?

Commissioner Tuley: A lot more water and a lot faster.

Jim Biggerstaff: Pardon?

Commissioner Tuley: A lot more water, a lot faster.

Jim Biggerstaff: Absolutely! You're creating a...to me, you're creating a lot more liability by adhering to this requirement, you

know, which these ditches presently will retain a 50 year storm. If you free clear this and put clear nice channels, grass ways and I'm sure you're going to get quite a bit of liability and a lot of responsibility downstream on this.

Bill Jeffers: But you're running all your water through your detention (inaudible).

Jim Biggerstaff: I understand that. But their detention is based on a 25 detention and when you get passed that 25 years, this amount of water is still going to go downstream and you're going to free clear it all the way to your outfall.

President Jerrel: I have a question, Mr. Terrell and Bill. Are we close enough on these two that you could work out something that would be acceptable?

Joe Harrison, Jr.: As far as I'm concerned, this is as good as you're going to probably get. It has got to be in the restrictions-

President Jerrel: Yeah.

Commissioner Mourdock: To Bill Jeffers' credit--

Joe Harrison, Jr.: --and covenants.

President Jerrel: Yes.

Commissioner Mourdock: To Bill's credit, I think he has made us aware of the situation in such a way that in going...in responding to this waiver, the developer is providing something here that we wouldn't have otherwise received, if Bill hadn't raised the very valid issue.

President Jerrel: Is there anyone else that wishes to speak to this? Hearing none, the chair will entertain a motion.

Commissioner Mourdock: I'll move approval of the final drainage plan for Equestrian Hills with the provisions that the Surveyor's comments, I'm sorry, the developers comment on the letter that was given to us dated September 22, 1997 regarding restrictions and covenants be included in the...in the final approved plat.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

Joe Harrison, Jr.: Did that cover the waiver?

Commissioner Mourdock: I'm not sure it did or not. I said final approval. Let me just verify that there's a second motion that the Equestrian Hills final drainage plan includes the waiver to leave some of the waterways in a natural condition as specified in Mr. Jeffers' letter to us and also as contemplated in the letter of September 22nd from H & A development.

President Jerrel: These are both being put in the minutes of the meeting?

Commissioner Mourdock: Correct.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Tom Terrell: I have an executed copy of that.

Commissioner Mourdock: Oh, very good.

Tom Terrell: I don't know where it should go. Here?

Commissioner Tuley: It probably goes to Charlene.

President Jerrel: Do you have a clean copy of Bills recommendation?  
Is there any new business to come before the Board?

Commissioner Tuley: We have a man in the back.

President Jerrel: Gentleman--

Bill Jeffers: Before the developer leaves the room, I wanted to give him a copy of what...just to make...he's in a real hurry to get this recorded. So I'd like to give him a copy of what is supposed to appear on the final plat with regard to the Homeowner's Association, so that when you bring the plat in, it has that on it because they bring that over to the Surveyor's Office from Area Plan and I have to sign off on it. I don't want to cost you another day.

President Jerrel: Can we make a copy?

Bill Jeffers: I'm just going to give him this whole thing. You all can go ahead. I just wanted to do that on the record.

<b>New Business</b>
---------------------

President Jerrel: There is a gentleman in the back of the room that had his--

Commissioner Tuley: Hand up.

President Jerrel: --hand up. Come on around.

John Irwin: I'm John Irwin and I'm here to file a petition. According to Mr. Jeffers I'm the first one in the county or the state for this petition?

Bill Jeffers: Oh, it'll be the second in our county.

John Irwin: Oh, okay. So you've been through this before?

Commissioner Tuley: Yeah, once.

John Irwin: I have a copy of the letter requesting the obstruction being removed. Here's the receipt where it was sent. Now, this is a natural surface watercourse we're concerned with. I've got copies of this.

President Jerrel: Thank you.

(Inaudible-comments made away from microphone)

President Jerrel: Well, we'll share.

John Irwin: Okay. I own the property at 4103 North Green River Road. What I'm concerned with is my next door neighbor at 4105. This is a church. The name of it is Fellowship Of His Grace. Dennis Engler heads it up. That's who the letter to remove the obstruction is written to. Now, you've heard the expression one picture is worth 1000 words, well, I've got three pictures so we'll say it tells 3000 words. This would be my property. This is my garage, this is their garage. The natural drain goes this way and this is the blockage. Now, this picture is the same problem only in a different direction.

Commissioner Mourdock: Is your mike turned on, Charlene?

John Irwin: You can see right here where the blockage is. They dug up a foundation and the dirt from the foundation is thrown into the natural waterway.

Commissioner Mourdock: Just so I can locate this--

John Irwin: Alright.

Commissioner Mourdock: --4100 North Green River, what's the closest crossing road?

Bill Jeffers: They used to call it Tennis Lane. It's just north of the Day school on the right and it used to go back to some tennis courts and a little tennis club--

President Jerrel: Oh, I know where that is. An old tennis club?

Bill Jeffers: --north of Lynch Road. It'll be the very first right, north of Lynch Road.

Commissioner Mourdock: South of the Veterinarian?

John Irwin: Yes. Between Lynch Road and the Vet.

Commissioner Mourdock: Okay.

John Irwin: Do you know the bean field back there and there's three houses?

Commissioner Mourdock: I can't picture where the church is.

Bill Jeffers: I think one of the Folz lives right there.

John Irwin: The church is the very last place on the road. It was originally a tennis court and they converted into...actually it's the second church that's been in there.

President Jerrel: Okay, I know where it is now.

Bill Jeffers: He owns all of that farmland.

John Irwin: I've got some more pictures. This is where the dirt was thrown into the ditch.

Commissioner Mourdock: So, we're looking at a few wheelbarrow's full of dirt, if I can--

John Irwin: Well, more than that actually. You know, like a truckload.

Commissioner Mourdock: Okay.

John Irwin: I asked him if that could be removed. When they were building the garage, I asked him to remove it then. He said, oh, we're going to landscape that. Then he kept on and on and on. In the spring time it really gets bad.

Commissioner Mourdock: Then you tried...you say him, this is Reverend Dennis Engler?

John Irwin: Yes.

Commissioner Mourdock: You've tried to work this out with him and spoke with him and what's been the response from Mr. Engler?

John Irwin: Nothing. This is the letter I sent to him.

Commissioner Mourdock: What's the date of this letter? Are you going to leave this copy with us?

John Irwin: Yeah, you can have this. You can have this too, if you want it.

Commissioner Mourdock: That's alright, why don't you hold onto it.

John Irwin: The 22nd of September. No, September 2nd, I'm sorry.

Commissioner Mourdock: Okay.

John Irwin: The 22nd is today, right?

President Jerrel: Right.

John Irwin: I wrote in there that I would like a response by the 15th of September. I think that was long enough. Now, can I have one of these back?

Commissioner Mourdock: Sure.

Bill Jeffers: Isn't this church seeking a building permit to expand their garage?

John Irwin: That's what I was getting too next. This is my garage. The line is on the other side of my log splitter there. What they want to do is build another 18x20 edition onto this and this is two feet off the line. There's no downspout at all on this. So it just adds to it, it adds to the problem here. Now, if they build another 18 foot out here, they're going to take up the whole natural waterway.

President Jerrel: Have you...have you initiated anything yet?

Commissioner Mourdock: I think the petition process.

Joe Harrison, Jr.: I just looked at the statute, you all are somewhat familiar with it, some of you are. Sir, what you may want to do is write on here that this is a petition, put your name, address, sign it, date it, all that good stuff. I suppose you know about the requirement of a filing fee of \$100.00?

John Irwin: I got it.

Joe Harrison, Jr.: I think you do. Okay. What this Board can do then, if you are going to file that petition, it can be filed with the Board as we speak and then the Board can then direct the County Surveyor to conduct an investigation and get back with us, probably at his next meeting, and then after that we have to do it within 90 days, if there's going to be a hearing. So it would have to be, probably to be safe, we ought to probably do it or this Board ought to do it in November, yes.

Commissioner Mourdock: Is that 90 day's from the date of the petition?

Joe Harrison, Jr.: The date of the filing. Which would be--

Commissioner Mourdock: Today.

President Jerrel: Today.

Joe Harrison, Jr.: --the 22nd, today. But then it would be up to the Surveyor's Office to conduct an investigation to check the validity of your petition. The contents of your petition should set forth a general description of the tract of land owned by you, a general explanation of the need for the removal of the obstruction and three, a general description of the site of the obstruction.

President Jerrel: Could we have...would you want to let Charlene make a copy of those?

Joe Harrison, Jr.: It's all going to be filed with the record.

President Jerrel: Okay.

John Irwin: Is that what you want there?

Joe Harrison, Jr.: Yeah and date it.

John Irwin: Oh, okay.

Joe Harrison, Jr.: Date it.

Commissioner Mourdock: One question Mr. Irwin, while you're doing that. Is the heart of the matter here the existing situation or is the heart of the matter the fact that you're afraid the next building that they do is going to really be the problem?

John Irwin: Both, actually.

Joe Harrison, Jr.: Well, as far as your petition is concerned, it's going to have to be, as far as what's going on as we sit here today. That's what the law says.

Commissioner Mourdock: The rest of it, I presume it would be an issue for the Building Commissioner, when the building permit is applied for.

Joe Harrison, Jr.: Right, or if you wanted to come back another time and file another petition. But as you sit here, I mean, if you file this today, that's all he can look at is what took place up to today.

John Irwin: Well, how can I get it into this proceeding the fact that this problem here and any future problems?

Joe Harrison, Jr.: Well--

Bill Jeffers: Well--

Joe Harrison, Jr.: --we're only talking about past.

Commissioner Mourdock: Yeah, as far as the law is that this \$100.00 filing fee can only pertain to what's out there today. But the question of the drainage way in the future and how that impacts on your property I'm guessing, you need to talk to Roger Lehman, who is the Building Commissioner.

Joe Harrison, Jr.: Or it might be, you may want to...you might want to wait another month. I mean, I don't know if you want to wait that long. That's something you want--

Commissioner Mourdock: Probably doing it sooner, will be better than doing it later.

Joe Harrison, Jr.: Yeah. But that's up to you, sir.

Commissioner Tuley: Because even if he doesn't build there, he's still got a problem.

Commissioner Mourdock: Right.

Joe Harrison, Jr.: There's...and you're claiming an obstruction caused the problem.

John Irwin: Right. Well, legally, as long as this is in process, can he start that building?

Joe Harrison, Jr.: If he gets permits, he can do whatever he wants. But that's a whole other issue. That's not anything that's coming before this Board.

Commissioner Mourdock: The Building Commissioner does not send his permits to us for approval.

John Irwin: So, tomorrow I go to see the Building Commissioner?

Commissioner Tuley: Right.

President Jerrel: And tell him what you have done.

Commissioner Mourdock: That's what I would suggest.

John Irwin: Alright.

Bill Jeffers: Could he get a restraining order? Is there a way that he could get a restraining order showing--

Joe Harrison, Jr.: He's got to go on his own and do something like that. As far as this body is concerned.

Bill Jeffers: Oh, not from this body.

Joe Harrison, Jr.: Right.

Bill Jeffers: Could he go to a lawyer and seek the lawyers advice as to whether a restraining order could be written in such a way--

Joe Harrison, Jr.: Who knows? I mean, that's up to a--

Commissioner Mourdock: We don't want to be in a position where this Board is giving legal advice.

Bill Jeffers: I'm always looking to drum up business for you and your brethren.

Commissioner Mourdock: That's what I told you earlier and we're back to lawyers again.

President Jerrel: Well, I think if you would go to the Building Commissioner's--

Bill Jeffers: In case I run against Mourdock, who just made them all mad.

President Jerrel: --Office and let them know what you have done and that you're initiating the new drainage law and you are taking advantage by filing a petition over a current obstruction--

John Irwin: Okay.

President Jerrel: --and that you know, you want them to be aware of that and any future building would also be an obstruction. But you would have to come back again, but you are just giving him the information. I think that would probably be the...here, do you want your pictures?

Commissioner Tuley: Joe would take a copy of the letter.

John Irwin: Oh, okay. Can I have these back?

President Jerrel: Yeah, sure.

Commissioner Mourdock: Charlene can probably accept it.

John Irwin: Do you want this? It's blank, I haven't signed it or anything.

Charlene Timmons: That's even better.

John Irwin: Now, there was quite a hassle as to who I make this out to. I'll write it out to Vanderburgh county.

Commissioner Tuley: That works.

President Jerrel: Yeah, that's it.

John Irwin: Oh, that'll work?

President Jerrel: That'll work.

Commissioner Mourdock: On the memo line, you might just put Drainage Board or something.

Bill Jeffers: Well, we're trying to find out whether we have a General Drain Improvement Fund that is specified in the law, whether ours actually qualifies. Did he sign that thing? That's the first thing I check to make sure Suzanne has signed that paycheck.

President Jerrel: That's right. If she hasn't, we're in big trouble. Okay, thank you.

Commissioner Mourdock: Thank you, Mr. Irwin.

John Irwin: One question. I was thinking while you were explaining what's going to happen now? Could you go over that again? Please.

Commissioner Mourdock: Joe?

Bill Jeffers: Our office goes out and investigates your allegations and that would mean that I, plus the Survey Crew, with the survey equipment, will go out there and look at that sometime probably in the next two weeks. Then I write a report to this Board and turn it in on the fourth Monday of October, whichever the fourth Monday of October is.

Commissioner Mourdock: The 27th.

Bill Jeffers: The 27th. They receive our report on that date, here and then they decide, from the looking at the report, they decide when to set the hearing at which they will notify you and the owner of the property on which you allege there's an obstruction.

John Irwin: Alright.

Bill Jeffers: Then we have a hearing within 90 days of today's date.

John Irwin: Okay. So then I can come back--

Bill Jeffers: A month from now and see the report.

John Irwin: Oh, okay, great. Thank you very much. I appreciate it.

Bill Jeffers: Don't lose those pictures.

Joe Harrison, Jr.: Do you want us to copy those photos? Or do you have them?

John Irwin: I'll tell you what.

Joe Harrison, Jr.: Why don't you give them to Bill.

Bill Jeffers: Why don't I get them from you when I come out.

John Irwin: Alright.

Bill Jeffers: Is that alright?

Charlene Timmons: Or I can take them.

Commissioner Tuley: I don't care.

Bill Jeffers: Or you can put them in a permanent record down here.

John Irwin: Well, I've got the negatives yet.

Joe Harrison, Jr.: That's fine, whatever you guys want to do.

Bill Jeffers: Why don't you enter them in the permanent record down here.

John Irwin: Oh, alright.

President Jerrel: That's the permanent record.

Charlene Timmons: I'm the permanent record and the money taker.

Bill Jeffers: Right. She's much more organized in her filing than I am.

John Irwin: And better looking.

Bill Jeffers: I'd hate to see that report now. The truth hurts.

Charlene Timmons: Thank you.

John Irwin: Thank you. Thank you very much.

Commissioner Tuley: You're welcome.

#### Blue Claims

Bill Jeffers: Okay we have some claims for ditch maintenance. Regular annual maintenance to regulated drains in Vanderburgh County with the required paperwork attached, Surveyor's signature affixed etc. and the Surveyor's recommendation to pay these claims to the vendors--

Commissioner Tuley: So moved.

Bill Jeffers: --for the maintenance.

President Jerrel: Is there a motion?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

#### Old / Other Business

Bill Jeffers: While you are signing those claims, the only item of new business that the Surveyor's Office has is with regard to the reconstruction of Crawford-Brandeis Ditch. Here's the original.

Charlene Timmons: Thank you.

Bill Jeffers: Basically, I'd like to have the entire thing, four pages, entered into the record. But basically what we're saying here is that the County Surveyor is aware that your Board wants to proceed as fast as possible in piping the Crawford-Brandeis Ditch from Virginia Street to Morgan Avenue. The Surveyor considers this a reconstruction of a regulated drain per Indiana code 36-9-27-34. We've seen the plans that were provided by United Consulting Engineers and we forwarded considerable number of questions to your consultant. They have replied in a timely fashion and answered each of our questions. They appear willing to continue to answer any questions we have about the plans. They seem to be able to answer all the questions we pose to them. We'd like to let you know that a reconstruction generally would require the Surveyor to go out and perform...under the statute, the Surveyor would have to perform all of the surveys, prepare all of the paperwork, draw all the plans, prepare notifications, hold the public hearings, prepare a schedule of damages and assessments, acquire the right-of-way etc., but

within the time constraints that your Board would impose on the project. But as your Board is aware, United Consulting already has completed almost all that work because the road plans for that project include plans for the reconstruction of Crawford Brandeis Ditch. Therefore, the Board may wish to advance the work of reconstructing Crawford-Brandeis Ditch immediately and if so, you might want to consider appointing United Consulting as your contract deputy for the project. So what we have done, basically, is we're telling you our workload would...is such that it would...it might take us six months to a year to complete the plans that are already complete...have already been completed for you by United Consulting. Then we've attached some references here to the Indiana Drainage Statute which shows...the references show, that your Board has the statutory ability to appoint a contract deputy whenever the Drainage Board finds it necessary to advance the work of reconstruction to a degree inconsistent with the workload of the County Surveyor. What you need to do there is declare a public emergency...or publicly declare an emergency and authorize the employment of an engineer or a firm of engineers as your contract deputy.

Commissioner Mourdock: This in no way is specifying or creating a new contract with United Consulting? This has been done under their existing contract, I presume.

Bill Jeffers: I'm not sure about all those details.

Commissioner Mourdock: I understand that's beyond your--

Bill Jeffers: I was just trying to help you expedite this deal.

Commissioner Mourdock: Yeah, right.

Joe Harrison, Jr.: I mean, they've been doing the work.

Commissioner Tuley: It's already theirs.

Bill Jeffers: Right, and they are qualified to do the work.

President Jerrel: And we're paying them for it.

Commissioner Tuley: Right.

Commissioner Mourdock: That's my point. I don't want to see them come in and say well the minutes say we were now specified to do this as a deputy...however you do it.

Bill Jeffers: Well, before you do it you might want to talk to them about it because they may have some extra duties. In other words, they would have to be present at the hearing to answer the questions from the...you're going to have to notify the affected property owners and have a hearing and then United Consulting would have to be here as the contract deputy to answer the questions that those folks might have about the plans. They may have to oversee or perform the preparation of the schedule of assessments and damages and the notifications to the property owners and so forth. There may actually be a little extra work for them to do yet even though they have already done the lions share of the required work.

President Jerrel: It occurs to me, and if I'm making an assumption, that we should take this under advisement, require our attorney to review the law and contact United before we take action.

Joe Harrison, Jr.: That's fine.

Commissioner Mourdock: I would, again, given the timeliness of this, and I appreciate you, Bill, trying to move this along, should we, in fact, schedule a special Drainage Board meeting to take care of this one issue then in the future?

Commissioner Tuley: I would think that you would want too.

President Jerrel: John, what--

Bill Jeffers: To be able to publicly declare an emergency and move forward before the next meeting.

Commissioner Mourdock: Right.

President Jerrel: Let's see. Our next meeting would be the...

Commissioner Mourdock: The 27th.

President Jerrel: The 27th.

Commissioner Tuley: That's five weeks.

President Jerrel: If you all put your heads together we could do this the--

Commissioner Tuley: Sixth.

Joe Harrison, Jr.: I believe that the road it crosses is which road? There is one road.

John Stoll: It would cross Oak Grove and Maxwell.

Joe Harrison, Jr.: Oak Grove and Maxwell and those would be the affected--

John Stoll: Right.

Joe Harrison, Jr.: --landowners would be those people right in that area.

John Stoll: Well, I don't know. Do we have to notify everybody in the watershed? Is that the way it would work or is it just the abutting properties?

Bill Jeffers: At this particular time Mr. Brenner and myself have had considerable discussion and some argument over that point. I won't say who said what, but the discussion has ranged from everyone in the entire watershed will be affected because they may feel at some point in the future that the pipe represents a constriction to the flow of water down to the point that as Mr. Harrison is saying there's just one or two places that would be affected. In the middle what possibly we must consider is that everything from Virginia Street...I mean, we've already got the pipe going in up to Virginia Street, so everyone south of the Expressway has already been affected to some degree by the pipe that's already been placed up to that point. One of the things that I'm most concerned about is all the property in the watershed from Virginia Street to Morgan Avenue as it's developed will now have to have the strictest enforcement of current drainage standards placed upon them and probably will have to detain more water than required by the current ordinance. In other words, we are going to fill in

a ditch that currently holds water.

Commissioner Mourdock: Acts as a detention basin.

Bill Jeffers: Yes. That can very well be demonstrated by that last rain that was two and a half inches in an hour. That's a heck of a rain, two and a half inches in an hour, and that ditch did not at any point reach the top of its bank until down around Maxwell Avenue. It was only half full in front of the Wal-Mart development and it got about three quarters full down by Vogel Road and it never got bank full during that entire rain until we got down near Morgan. There will be a big effect placed upon the property owners between Virginia and Oak Grove which is now all agricultural and as they develop they are going to have set aside considerable tracts of land for detention basins and those tracts of land are going to be very, very valuable tracts of land considering the cost per acre that the ground now carries.

President Jerrel: That's really the Hirschs and Woodward?

Bill Jeffers: It would be over to the break point where the water breaks and goes in Nurrenbern Ditch which is about a half-mile from Burkhardt Road to about a half-mile west of those two.

President Jerrel: Let's...if someone would make a motion, let's sort of target the 6th of October.

Commissioner Mourdock: Yeah, I'll move that we advertise for a special Drainage Board meeting immediately following the County Commissioners' meeting on October 6, 1997 to--

Joe Harrison, Jr.: The only thing is I am not too sure we can get the notice in, in time. I would prefer that you wait one more week.

Commissioner Mourdock: Okay, I'll amend that motion to be October 13th for the purposes of dealing with the issues of reconstruction of Crawford-Brandeis Ditch.

Commissioner Tuley: Question, Bill. I thought we had discussion about advertising on these things. I thought as long as this Board is here or something? What kind of notice do we have to give?

Joe Harrison, Jr.: Well, your going to have to get the landowners.

Bill Jeffers: You're not planning on having the hearing on that date, you're just going to declare the emergency and--

Commissioner Tuley: No, and determine whether we want to use--

Bill Jeffers: --determine whether or not you want a contract deputy.

Commissioner Tuley: --a consultant, United.

Commissioner Mourdock: Right.

Joe Harrison, Jr.: Okay, well that's fine. You've got sufficient time to do it on the 6th.

President Jerrel: The sixth.

Commissioner Tuley: The sixth.

Joe Harrison, Jr.: Right.

President Jerrel: So let's amend it back to the 6th.

Commissioner Tuley: Let's amend it back to the 6th.

Commissioner Mourdock: My motion is back to October the 6th.

President Jerrel: Okay.

Commissioner Tuley: I'll second.

President Jerrel: Alright, so ordered.

Charlene Timmons: Do you want us to advertise that twice if possible?

Joe Harrison, Jr.: If you can, yeah.

Charlene Timmons: We can. Should I just state it for the...I don't know what the wording should say.

Joe Harrison, Jr.: I'll talk to you. It will be like the one we did on September 2nd. Why don't you pull out the last one and then I'll talk to you.

Charlene Timmons: Okay.

President Jerrel: Are you satisfied with that motion? Okay, Is there any other business to come before this Board? Hearing none, I will entertain another motion.

Commissioner Tuley: To adjourn. So moved.

Commissioner Mourdock: Second.

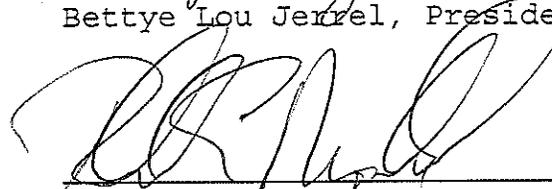
President Jerrel: So ordered.

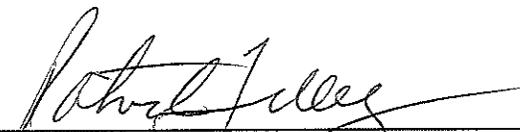
Meeting Adjourned 8:00 p.m.

*Those in attendance*  
Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Gary Tucker  
Bill Jeffers  
John Irwin  
Jim Biggerstaff  
John Stoll  
Others indentified  
Members of the media

Vanderburgh County  
Drainage Board

  
\_\_\_\_\_  
Bettye Lou Jerrel, President

  
\_\_\_\_\_  
Richard E. Mourdock, Vice President

  
\_\_\_\_\_  
Patrick Tuley, Member



**Vanderburgh County  
Drainage Board  
October 6, 1997**

The Vanderburgh County Drainage Board met in session this 6th day of October in the Commissioners' Hearing Room of the Civic Center Complex at 7:08 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I'd like to call the Vanderburgh County Drainage Board to order. This is an emergency or a special meeting that was advertised October 3rd and September 26th in the Evansville Courier and Press.

**Reconstruction of the Crawford-Brandeis Ditch**

President Jerrel: The purpose of said meeting is to consider the employment of the Contract Deputy Surveyor in connection with the reconstruction of the Crawford-Brandeis Ditch along Burkhardt Road between Virginia Street and Morgan. I met with the Surveyor and I received this letter, which you have a copy and I'm going to read it into the record:

"Dear, Mrs. Jerrel, the County Surveyor is aware the Vanderburgh County Drainage Board wishes to proceed with haste in the matter of tilling Crawford-Brandeis Ditch. The Surveyor considers such a tiling to constitute a reconstruction of a regulated drain per IC 36-9-27-34. The Surveyor's workload at this time prohibits his office from completing all the necessary surveys, research plans, drawings, notifications, schedules of damages and assessments and so on, required for reconstruction of the Crawford-Brandeis Ditch within the time constraints imposed by the Board's schedule. If the Board wishes to advance the work of reconstructing Crawford-Brandeis Ditch immediately, the Board should appoint a Contract Deputy for the project per 36-9-27-32. In order to appoint a Contract Deputy the Board must declare an emergency exists in the matter of reconstructing Crawford-Brandeis Ditch. The Surveyor agrees with the Board that a special meeting scheduled for Monday, October 6, 1997 is an opportune time for the declaration of an emergency in the matter of reconstructing Crawford-Brandeis Ditch. When the Board appoints a Contract Deputy, the Surveyor will remain available to assist the Board and their consultant with the reconstruction, hearings and other related matters as our workload permits."

Attached is a...you have also each a statute that is reference and I would ask your feelings on this, if you need a little more time to read it? This is necessary if we're going to have somebody follow through on the legal requirements in order for us to proceed with the tiling of that ditch and we need to get that finished. We need to get this money encumbered and we are running out of time.

Commissioner Tuley: So therefore, we have an emergency and I

request one be declared.

President Jerrel: Is there a second to that motion?

Commissioner Mourdock: I will so second.

President Jerrel: So ordered. We have declared an emergency and at this time I would like a recommendation. The Surveyor has suggested that our current engineer on the project is familiar with this and has the skills and is available to complete it and he will work very closely with him and the Surveyor has been in constant contact with him, examining the documents to date. So, if there could be a motion to that effect?

Commissioner Mourdock: I would move that we use the Deputy Contractor...contracted Deputy Surveyor on this project, United Consulting as recommended by the County Surveyor's Office.

Commissioner Tuley: Second your motion.

President Jerrel: I'll so order. Is there a motion to adjourn?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: We are adjourned.

Meeting adjourned at 7:11 p.m.

**Vanderburgh County  
Drainage Board  
October 6, 1997**

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***Those in attendance***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Others in attendance  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

Transcribed by Gary Tucker

**Vanderburgh County  
Drainage Board  
October 27, 1997**

The Vanderburgh County Drainage Board met in session this 27th day of October in the Commissioners' Hearing Room of the Civic Center Complex at 6:30 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I'd like to call the Vanderburgh County Drainage Board to order.

**Approval of the minutes**

President Jerrel: The first item on the agenda is the approval of minutes from the September 22nd meeting and the October 6, 1997 special meeting.

Commissioner Mourdock: I'll move approval of September 22nd meeting and also, the October 6th minutes from the Drainage Board.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Surveyor's report and hearing date of an obstructed drain**

President Jerrel: The next item on the agenda is to accept the Surveyor's Report and set a hearing date in the matter of an obstructed drain.

Bill Jeffers: Okay, I've presented you with the Surveyor's report to the Drainage Board confirming the existence of an obstruction in a natural surface watercourse. Basically, the report reinforces you that John D. Irwin, sitting here in the front row, of 4103 North Green River Road, filed his petition on September 22, 1997. A copy of that petition is attached to the back as Exhibit "A". Mr. Irwin alleged the existence of an obstruction on land adjacent to his property in the form of soil that was removed from the foundation of a new garage. Then the garage...this garage was built at 4105 North Green River Road. Mr. Irwin alleged that the obstruction blocks natural drainage from his lot and from the agricultural fields north of his lot that drain through his backyard. He said this blocking of the natural drainage denies him full use of his property from time to time and he's also concerned about the standing water seeping into his well water, which I assume, that's his source of drinking water. I don't know for a fact, but that's what I assume from reading his petition. On October 21st, I went out to the property with two people from the survey crew and this report describes what we did at that time to check the site at which Mr. Irwin alleges there's an obstruction of a natural surface watercourse and then on page three we verified the existence of a natural surface watercourse, as defined by Section 3 of Indiana Code 36-9-27.4, and we found that there does exist through Mr. Irwin's backyard and his adjacent neighbor's yard is what that statute defines as a natural

surface watercourse. We show you on Exhibit "D" which basically was...is a drawing that's attached, I believe to a...well, it's the site plan that Mr. Irwin's neighbor submitted, I believe for the construction of that 30x40 garage. It shows the existing tennis courts, the church building, the parking lot, the rock road that goes in front of Mr. Irwin's property at 4103 and then onto 4105. Then I'm showing you the location of the alleged obstruction being a pile of dirt, sod, and soil in front of that garage and blocking the natural surface watercourse, and I say in here, that I observed the quantity of dirt and sod located both near and within the natural surface watercourse depicted on that drawing, and that I confirm that the dirt and sod appears to be excavated from its original location so that the owner of 4105 was able to install a slab foundation for his 30x40 building, and after that was constructed, he didn't level that or grade that soil smoothly outward from the foundation in such a way that it would have preserved the natural surface watercourse in its original shape but, left it laying there in a lumpy mound and then I also say, I observed in Mr. Irwin's backyard the bare lawn areas, I call them hardpan, where the water has sat there so long it causes the ground to become hard and bare. Some alligator...well, that's just a common name. Alligator mud cracks, where the water has sat there and as it evaporated, it cracked the earth. Some dried algae scum and what I'm saying there is that all these phenomena indicate periodic standing water. Therefore, based upon the information gathered in this investigation conducted by the Deputy Surveyor and described in this report, the Vanderburgh County Surveyor finds and reports to the Vanderburgh County Drainage Board, an existing obstruction in a natural surface watercourse at the location alleged by Mr. John D. Irwin in his petition. I've signed that, and dated it, and presented it to you along with the copy of his petition and some other drawings in the back here indicating...drawing "B" for example, indicates that the planimetric maps developed from area photographs for our county in 1990, clearly indicate that the natural ground falls through Mr. Irwin's lot and the property known as 4105 North Green River Road and eventually over to the east into Crawford-Brandeis Ditch. Then I'm showing you John Irwin's sub that's on attachment "C".

Commissioner Mourdock: Excuse me Bill, is...on what you have as Exhibit "D", the 30x40 foot building or that garage--

Bill Jeffers: Right.

Commissioner Mourdock: --is that on the Irwin property?

Bill Jeffers: No, sir, that's on 4105.

Commissioner Mourdock: So the north-south line just to the left of that, that is the extent of the property line?

Bill Jeffers: Yes, sir. That's the joint line between Mr. Irwin and 4105.

Commissioner Mourdock: That garage belongs to the church?

Bill Jeffers: It belongs to Temple of Praise of Evansville

Incorporated, according to this site drawing.

Commissioner Mourdock: Okay, so they're the ones who are the other party in this?

Bill Jeffers: They would be the respondent in this.

Commissioner Mourdock: Okay. I move that we accept the...

John Irwin: May I say something?

Commissioner Mourdock: Sure.

President Jerrel: You'll need to give your name.

John Irwin: I'm John Irwin, I'm the property owner and the petitioner. The Temple of Praise is not the church that's there now. It's Fellowship of His Word, I think, is the name of it and in this plan "B" and the paper "D" it shows 25 feet from the property line to the garage. That's two feet!

Commissioner Mourdock: I'm sorry, What's two feet?

John Irwin: The 25 feet from the garage to the property line. It's actually two feet.

Commissioner Mourdock: Okay.

John Irwin: That's it, thank you.

Commissioner Mourdock: I move that we accept the County Surveyor's report then, regarding the matter of John D. Irwin, 4103 North Green River Road Evansville.

Commissioner Tuley: Second.

President Jerrel: So ordered. Now, what's the next step?

Bill Jeffers: You've received the report and the report does confirm the existence, in the opinion of the County Surveyor, an existence of an obstruction of a natural surface watercourse. The next thing to do would be to set a date for the hearing on the petition.

Commissioner Mourdock: That can be no longer than 60 days, or 90?

Bill Jeffers: No sooner than 30 from September 22nd. Today is 35 days. Your next meeting November 24th would be 63 days.

Joe Harrison, Jr.: Ninety one, is our December meeting. So we need to do it in November.

Bill Jeffers: Or on an intermediate time between--

Commissioner Tuley: In between.

Joe Harrison, Jr.: Yeah.

Bill Jeffers: November 24th is 63 days. The first day of December is 70, 8th day of December is 77.

Commissioner Mourdock: I'll move that we schedule the hearing for the John D. Irwin, 4103 north Green River Road petition hearing, for November 24th, at our regular meeting of the Vanderburgh County Drainage Board.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: The next order of business would be to serve notice of the hearing on each owner of the land on which the obstruction exists. So we must identify whether it's The Temple of Praise or some other heir assigned since the time of the issuing of the building permit for the garage.

President Jerrel: That would be as determined by the tax--

Bill Jeffers: Tax records. We need to determine the owner of record of the ground at this time and serve that person with notice in accordance with the Indiana Trial Rules. Rule 4.1 or Rule 4.6.

Joe Harrison, Jr.: We'll serve them by certified mail. Did you do it the last time or did the Drainage Board send it out? I think the Drainage--

Bill Jeffers: I think we determined that it would go through the Auditors' Office to confirm that it was correctly...that we correctly identified the owner and--

Joe Harrison, Jr.: Right, but who--

Bill Jeffers: --that they were served correctly.

Joe Harrison, Jr.: --mailed out the certified mail last time?

Commissioner Mourdock: I think the Drainage Board.

Bill Jeffers: That would be Ms. Rausch, you all mailed that to.

Commissioner Mourdock: But it was done on behalf directly of the Drainage Board, not the Surveyor's Office.

Bill Jeffers: Right.

Joe Harrison, Jr.: Right. Can you--

Charlene Timmons: Weren't those hand delivered?

Bill Jeffers: I ended up having to hand deliver them.

Joe Harrison, Jr.: Well, we're not going to hand deliver them. We're going to send it by...you know what we'll do? We may just do it by Sheriff and then by mail.

Bill Jeffers: I think that Rule 4.1 is by mail, certified, Rule

4.6 maybe hand delivered by Sheriff.

Joe Harrison, Jr.: Yeah.

Bill Jeffers: I might be mistaken on that, but that's the way it goes.

Joe Harrison, Jr.: At least we'll know they'll get it. Sometimes people don't pick up certified mail.

Commissioner Tuley: That's right.

Bill Jeffers: I've been out there actually three times and I've never seen anyone in the building.

Joe Harrison, Jr.: Yeah, that's what I was afraid of. One last thing, as far as the address, the address of The Temple of Praise of Evansville Inc. is it 4105?

President Jerrel: It's 4103. No, 4105.

Bill Jeffers: It's 4105. According to the information that I got from the Area Plan Commission. Now, we have to check that too, to make sure that we have the absolute correct address.

Joe Harrison, Jr.: Okay, okay.

Commissioner Mourdock: Right, and it sounds like it may be some successor in interest to that group anyway because it may be a different name now.

Joe Harrison, Jr.: Okay.

Commissioner Mourdock: I'll move that the County Attorney draft a letter on the behalf of the Drainage Board to serve notice regarding the John D. Irwin matter.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Astoria Subdivision - Modification to previously accepted plan**

President Jerrel: The next items are the Drainage Plans.

President Jerrel: The first one, Astoria Subdivision.

Bill Jeffers: Astoria Subdivision is very simple. It's already received approval of its drainage plan which included a very small basin at the entrance of Astoria Drive to Schlensker Road. I've just taken a piece of the plan and cut it out for an exhibit so you didn't have to fold out a big old plan. What we found, at the request of the developer, we went and investigated this. He is afraid that will be a little muddy duck pond right there at the entrance to his new subdivision and the pipes were to be installed in county right-of-way. So we would have two pipes to maintain rather than one. We checked downstream and

found that the waterways downstream of this location are constructed or exists sufficient to take the runoff without detention. We found that the two lakes in this project itself detained enough...had enough storage capacity to meet the requirements of the ordinance. What we had this down there for originally, was just to catch the water coming off that street mainly because we were unsure of the capacity of the downstream channels. The downstream channel then passes through this same developer's previous project and through some lakes and other drainage facilities in that project that have storage capacity in excess of the requirement, because he built them as ornamental lakes, he built them big. He's asked us to allow him to delete this from his street plans. I've talked to the County Engineer about it and the engineer representing the developer is also here and the only provision we attached to it was that, that first driveway immediately downstream be checked to see that the pipe underneath it would handle the flow and Mr. Nicholson came back and said they need a 15 inch pipe, rather than a 12 inch pipe. So, our recommendation for the Board to approve this change would be based upon the developer, Gary Williams, installing, or pay for the installation of a 15 inch pipe under that first driveway downstream. So, therefore, we recommend that you allow Mr. Williams to delete this small detention basin from his road plans for Astoria, with the provision that he supply and pay for the installation of a 15 inch driveway pipe immediately downstream.

President Jerrel: Are there questions?

Commissioner Mourdock: Yeah, do you have anything that they have written or anything that they have sent you at this point, Bill, confirming that? I don't know, let's see, Mr. Nicholson is here. Anyone wishing to make a statement on the record that they're willing to do that? That's the only point I have.

Bill Jeffers: That's what you want, a statement from the developer or his representative? They're willing to do that.

Commissioner Mourdock: Right, yeah.

Bill Nicholson: I'm sure, I haven't talked to Mr. Williams, he wasn't available today, but I'm sure that he would go along with it, with changing that pipe under the driveway to the east.

President Jerrel: Do you want to give your name?

Bill Nicholson: Bill Nicholson, I'm sorry.

Commissioner Mourdock: Yeah.

President Jerrel: It's okay.

Bill Jeffers: I know he would be willing to, simply because it's going to save him money, as opposed to the other piece of pipe that would have to go in from the basin.

President Jerrel: But could we accept the motion based upon that?

Commissioner Mourdock: Subject to Mr. Williams agreeing to pay for that 15 inch pipe, then I would move that we agree to the Surveyor's recommendation to delete the retention pond from Astoria Subdivision as stated.

President Jerrel: Is there a second?

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Ashley Place - Modification to previously accepted plan**

Bill Jeffers: Thank you. Ashley Place is another change. You have already approved the final plans for Ashley Place Subdivision which is a development of Rick Broerman of Three I Engineering. The plans were drawn by Easley Engineering. The change is not a physical change. All the facilities will be constructed as you approved them. But Ashley Place Section "A", I have one here but it's actually Section "A", consists of these Lots 1 through 13 plus 51, 52, 53, and 50. The change is...Mr. Bill Jagoe will be developing these lots as Section "A" and he does not want a Homeowner's Association form of maintenance. On all of his developments, so far in Vanderburgh County, he's opted for Plan "B" where he will put up \$2.00 per lineal foot for all pipe outside county right-of-way, and then there will be a repair fund established for this project that will pay the cost of repairing structural failures to the storm sewer pipes, junction boxes, inlet boxes, etc. so what Mr. Easley has done is resubmitted this, crossed out the Lot Owners Association form of maintenance, added Plan "B" and then also Mr. Jagoe uses all concrete pipe so he has a note down here:

"All storm sewer lines shall be reinforced concrete pipe rather than ADSN12"

That was dated 8/27/97, that they made that decision.

President Jerrel: Is that for Lots 50, 51, 52?

Bill Jeffers: Right. Fifty, 51, 52, 53, plus Lots 1 through 13.

President Jerrel: Okay.

Bill Jeffers: That constitutes Section "A" of Ashley Place. We're willing to recommend that the Drainage Board endorse this change. It conforms to the requirements of the ordinance. But, I hope Mr. Broerman understands that the rest of this will also go to Plan "B" because this is the entrance to the subdivision and you know, you have joint facilities, I mean, the detention basin will continue up from Lot 50 and to Lot 49 so forth and these swales and pipes will continue on up into the rest of the subdivision. So not only will we be recommending that the change take place in Section "A", but it's going to take place for the whole ball of wax. You can't mix and match Homeowner's Association--

President Jerrel: I understand that. But do they realize that?

Bill Jeffers: I care not, and they're not here. They'll figure it out quick enough.

President Jerrel: Is Mr. Easley--

Bill Jeffers: I think he's on his way down here, because he's got another issue before the Board, I believe.

Commissioner Mourdock: Bill, you said something about they're going to pay \$2.00 per lineal foot. Keep going on that. What does that mean? Two dollars per lineal foot per year?

Bill Jeffers: No, one time payment. Your Plan "B" under the ordinance for maintenance. Plan "A" is the Association, where the homeowner's pay everything in the future. They collect their own funds, set up their own repair accounts.

Commissioner Mourdock: Okay, I've got it here in front of me now.

Bill Jeffers: Then Plan "B", the developer during construction submits to Mr. Stoll, in the Engineering Department, the equivalent of \$2.00 per measured lineal foot of storm sewer pipe and fixtures outside of county accepted road right-of-way and that fund sits down in the Auditor's Office and collects interest until such a time as there is a structural failure in that system at that...in Section "A" and then the County Engineer would determine how much that repair would cost and he draws it out...he draws the money out of the fund assigned to that account. It's just like the Ditch Funds, and the work is done.

Commissioner Mourdock: Okay, good enough.

Commissioner Mourdock: You're recommending under that plan that we accept this?

Bill Jeffers: Yes, sir.

President Jerrel: You're ready to make the motion?

Bill Jeffers: That was the request of Mr. Jagoe and Mr. Broerman.

Commissioner Mourdock: Okay, I'll move acceptance of the modification to the Ashley Place Subdivision plan, as stated by the County Surveyor's Office.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: As to the future, it's my hope that Mr. Jagoe develops the entire thing, because he does a good job. I think if we help him along here, it'll happen all that much quicker.

**Fretina Acres - Preliminary approval of drainage plan**

President Jerrel: Are you going to join us, or did you just come in to visit?

Bill Jeffers: No, he doesn't want to have to share his Twinkies.

Unidentified: No, I have something more important to do.

President Jerrel: Okay. Eat a Twinkie?

Unidentified: How are you, Bill?

Bill Jeffers: Fine honey. I think your next one is Fretina, is that correct?

President Jerrel: Yes.

Commissioner Tuley: That's what it says.

Bill Jeffers: Okay. Fretina is the convenience store at the Corner of U.S. 41 and Hillsdale Road. It's already been constructed on lot one of Fretina Subdivision. This is where they had to go to the Department of Natural Resources for a permit to construct this bridge, which is an extension of Walnut Road. They've done all that. I've outlined the floodway in a long pink line and you can see that the basin they've already built was inside the floodway, that was permitted. Now they're ready to develop these other three lots to the south of the convenience store and it will require another basin inside the floodway and they've already applied to DNR for that.

President Jerrel: What are they building on the other three lots?

Bill Jeffers: They haven't told us. They're just wanting to take this to Area Plan Commission with preliminary approval of their drainage plan which technically, they've already...they already have preliminary approval for all the land out there. The preliminary approval was one of those things that they would come back and show us a more detailed plan at the time of development. Now they've decided to divide it into what, three more lots?

Commissioner Tuley: Three.

Bill Jeffers: At one time they were talking about one big lot an R2 or R4 and having some sort of multi-unit housing. It doesn't look like that's what they are pointed toward now. It looks more commercial to me. They're extending the road out into a hammerhead. It looks like probably a...not McDonalds because there's already one down the street there at Mt. Pleasant but maybe other fast food burger doodles. That's just speculation on my part. But that's a rapidly growing area. Okay, so our recommendation again, would be to approve the preliminary plan for Fretina Acres, Second Phase, as shown in front of you with the provision that the final plan not be approved until the

permit comes back from the Department of Natural Resources as on Lot One.

President Jerrel: Is there a motion?

Commissioner Mourdock: Yeah, I'll move approval of the Phase Two of Fretina Acres subject to the final approval of the Department of Natural Resources.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Ritter Place**

Bill Jeffers: What's your next one?

Commissioner Tuley: Ritter.

President Jerrel: Ritter.

Bill Jeffers: I haven't received that.

President Jerrel: Schultheis.

Bill Jeffers: Ritter is a minor subdivision. We simply asked for a drainage plan because it appeared that there was a significant natural surface watercourse running through one of the lots. It appeared as if there was a trailer located in such a way that it might be near that natural surface watercourse and we just wanted to see a few more details at Subdivision Review Committee hearing.

**Schultheis Subdivision - Modifications to previously accepted plan**

Bill Jeffers: Okay, Schultheis Sub is actually, previously, a part of Bluegrass Subdivision on Hillsdale Road and it received drainage plan approval along...I mean this particular parcel of land received drainage plan approval in 1986 as a part of Bluegrass Subdivision. Here's the old drainage plan of Phase Two approved September 3rd 1986 and I've outlined that portion of Bluegrass Subdivision in pink that subsequently was deleted from the development and not completed and it contained five lots. Under Bluegrass Subdivision it would have been Lots 33, 34, 35, 36 and 37. The reason I'm showing you that, in that form, is because it was brought to my attention in the last few days that, that drainage plan had received approval in 1986, prior to the ordinance of 1986 having been passed and also prior to your current ordinance of 1994. Okay as that portion...it used to be called Clayborne Road that cul-de-sac you see extending up into those five lots. That was deleted from construction and never completed. Under Schultheis Subdivision, that cul-de-sac will be shortened down to just inside the pink boundary. I've drawn it with a red circle. This one instead of it extending up 500 feet from this road, it will only extend up about 300 feet.

Commissioner Mourdock: They're going to reduce from five to two lots then, or something?

Bill Jeffers: It'll be reduced from five lots to one lot. Mr. Schultheis is here in the audience with his engineer, his consulting engineer Jim Morley, and what's being presented to the Area Plan Commission is that, Mr. Schultheis desires to reduce this to one lot. It'll be a one lot subdivision. The reason it's a major sub is because it previously was part of a major sub or whatever their rules are down there. There will be less hard surface of road. Currently, the drainage plan for that roadway was not completed and water comes down out of a lake and crosses the roadway and is not fully under control and causes some problems which you may hear about tonight. Under the new plan Mr. Morley has shown that he will install two area drains in addition to the two curb inlets. The curb inlets will pick up the street water and the area drains will pick up the previously uncontrolled water that comes across from a lake and that will be piped through a 30 inch pipe down to the creek channel.

Commissioner Mourdock: Clayborne as shown on this 1986 map was never built at all, is that right?

Bill Jeffers: I think it was partially constructed. There may be a pipe extended up to those inlets, but I don't think it's under...I don't think it's...I'm going to let Mr. Morley explain all that to you. It's not operating fully or properly at this time.

Commissioner Mourdock: Okay.

Bill Jeffers: It wasn't really, completely constructed the way it should have been.

Commissioner Mourdock: Just for the record, Mr. Morley, shook his head no, when I asked if it had been built.

Bill Jeffers: I don't know how far some of those were stubbed out. Okay, I have other drawings here of the plan in profile for the new street, but I outlined it that way because I thought it would be easier for you to compare the two plans as it's under discussion. I think there are people here who would like to address the Board regarding Schultheis Subdivision.

Jim Morley: My name is Jim Morley, and let me just briefly say, the only thing that was actually completed for Clayborne was that a 30 inch pipe was extended underneath the street in Bluegrass Farms to a street...to a curb inlet and then nothing was ever extended out of it. The original plan called for running a 24 inch pipe up along Clayborne to intercept water coming from the north and west and that pipe was never put in. So right now, there's a 30 inch diameter stub under the street and there's only one inlet hooked to it. So what this plan does, is this plan goes ahead and connects onto a 24 inch pipe just like the original plan was, and runs it up along there to behind those lots in Bluegrass Farms, and has inlets to pick up all of that water. So, this completes the collection of all the water, as originally planned on the approved drainage plan. But no

part of the street was actually constructed that will be done here.

President Jerrel: Is there anyone else that would like to speak?

John Wasson: My name is John Wasson, I'm a resident of Bluegrass, a new resident of Bluegrass Subdivision and we got notice of this in pretty short notice. Wednesday of last week was when we were first aware that he was contemplating a drainage plan or changing the drainage plan. My property is the lot, I think it's 38 on the map you have before you. The drainage and the main drainage of the subdivision passes through my lot. The creek there is...the creek is, I'm going to call it a creek, it's five feet wide, six feet deep and it overflows its banks regularly today without any further paving or increasing of the runoff area. Any improvements I feel, would make that creek overflow more often. Now, I'm not an engineer but I have some engineering background in the coal business. I'm used to retaining water and building retaining ponds and I feel and I've consulted a couple of engineers that a dry lake, as he intends to improve this area and I believe it's his property he's entitled to improve it. But I think a dry lake or some retention area in that creek bed, and since he has a seven-acre parcel, I can't imagine a home or a single lot that would use all seven acres for a home. I think he has adequate area there to help control the runoff in this subdivision and there are other members of the Homeowner's Committee here with me this evening that would say, historically, because they have lived here longer than I, that this does get out of its banks and does impact the streets. They become impassable. My crawl space under my home has got a high water mark within a few inches of the floor joists and it's...that occurred this summer. I don't know, I wasn't standing there, out in the yard, that day when it came up high enough to run in the grates and into my basement. But that's close to a catastrophe for me. With this short notice and I understand from my conversations with Mr. Jeffers that he didn't get these plans from Morley Engineering. No one has really reviewed this prior to...you know, it's very short notice. It should be a routine matter because these plans were previously approved but that's another issue. They were approved in 1986 and apparently sometime between '81 and '86 Mr. Schultheis, who owns an adjacent 20 acres, constructed, this is my estimate only, a seven-acre lake, which has a dam that I believe exceeds the state regulations for a dam. It's over 20 feet high. It's not permitted or registered with Dams and Levees. I believe that a seven-acre lake greatly impacts the number of inches of water that come crashing down that creek in a heavy rainfall. It runs off. It's almost as if he paved it like a tennis court by making a seven-acre lake. Just above this subdivision that he's proposing or this one home subdivision, he owns the adjacent 20 acres to that. So, while he's holding out to you today that he wishes to only effect the drainage in one seven-acre parcel, in fact, he has done considerable modification to the drainage just above the seven-acre parcel. I would like to ask for your committee to...your Commission to postpone any preliminary approval until a little further examination of both the design of this lake and it's effect on this watercourse. Because, it all happens concurrently. This subdivision went in with your approval. At the same time, or

roughly the same time, he's building a lake which was out of your purview and if he'd like to discuss that lake and its overflow height then...you know who designed it or how he approved it or how he got it permitted, I'd be happy to listen to Mr. Schultheis as well. But there's several issues here that I'd like to address this evening. Thank you very much for your time.

Don Mills: My name is Don Mills, I reside at 835 Hermitage. That's lot number 12 on the plot plan there. What I'd like to really express to this commission on behalf of the Building Committee, which I am Chairman of, also, you might note that I'm also a registered engineer in the states of Indiana, Illinois, Tennessee and Ohio, I would like to express to you our concerns about the flooding that occurs in Bluegrass Farms. As you've already heard, that drainage was designed by Mr. Morley also but, on at least four occasions that I know of, four occasions since January 1 of 1997, the street in front of 835 Hermitage has had a minimum of two foot of water in it. The water comes up towards my home approximately half way up my driveway and I've stood and watched this several times happen. I'm wondering when it's going to reach the top and into my home. So I believe that we've got some problems to deal with, both in the Phase One and Phase Two of that subdivision, that we're going to have to work on and try to alleviate the flooding problem and I believe that this new subdivision would do nothing more than add to that problem. Once again, we visited the Engineers' Office, Mr. Wasson has on behalf of us, we did not have an opportunity because no preliminary drawings, plans, or anything was available. Now we do have a copy of the original submission back in 1986 I believe it was. It says here:

"The sanitary sewers were '88 and '91."

But, we do have a copy of that. I would like to see the calculations submitted of the runoff and to what areas it effects and to have a further study of just what effect it would have on the homes in Bluegrass Farms and the only way to do that is to get a bonafide drainage calculation and plan submitted and that we get a proper opportunity to review this for approval and I submit that we postpone this until such a plan has been submitted. Thank you.

President Jerrel: Thank you. Is there anyone else that wishes to speak to this? For the record, I'll just make this comment. I was on Calumet Road and Hermitage Road in the spring of '96 and it exceeded two feet, because I took off my shoes and waded through it. I've never seen water that fast, coming down a hill to a level, that lower area, faster anytime in my life. I don't know what the answer is and I don't know if that's a one time thing but I know I've never seen it move that fast and that deep.

Jim Morley: My name is Jim Morley again. As you know, Bluegrass Farms was designed under the standards of '86, designed for a 25 year storm. That's the size that the pipes were sized at. That was our standards in those days and those pipes were all properly installed according to that. What that does mean is

that if you have a rainfall at a 50 year storm or a 100 year storm and you are aware that we have had some rains that did exceed the 25 year storm and that means that those pipes will not carry the flow without getting up and onto the road at...on those 50 year storms. Now the second thing that happens along the design of the subdivision is you establish floor elevations for the homes and Indiana requires the two foot freeboard. The homes are set up so that the first floor elevation is two foot above the 100 year flood level and while a person's entire yard could be flooded, the entire street in front of there could be flooded at a 50 year event or a 100 year event, they don't get water into the floor of their home. Now you know, crawl space openings are not, you know, they could be at a lower elevation. In this particular plan, on that one street, you have...we have currently out there, one of the pipes that is currently unused that was available or set up to be used as a part of this development. Bill, did you show them the overall of the one you have in front of you?

Bill Jeffers: The county map?

Jim Morley: Yes, I wonder if I might?

Don Mills: May we look at it also, we've not seen it?

President Jerrel: Sure.

Jim Morley: As a... what you have there is a county topographic map that shows the entire drainage basin and you see essentially that the ditch that Mr. Wasson is referring to is the ditch that drains Tall Timbers Subdivision. The area that Mr. Schultheis is concerned with, a very small area over at the west side of the drainage basin and is not the primary source of the water. The primary source of the water is on to the east and the black line defines the watershed boundaries where all of the water comes from. The blue lines on there indicate the major streams that were mapped under the county's mapping program. The solid blue areas are the lakes that are currently out in that area. As you can see, you know, the source of the water is from other than Mr. Schultheis' proposed development. The steep ground, to the streams, all of those things are upstream. Yes, they certainly are. But, the relatively low level rolling ground of Mr. Schultheis that's involved in this question, contribute insignificant to this overall picture and in fact, you know, what we're here today is to say, we need to go ahead and finish what we started and what was approved in '86. We should not let this go forward. We should go ahead and put in the pipe that was called for on the original plan. That's what we should do.

President Jerrel: Mr. Schultheis?

Leo Schultheis: I'd like to see a copy of that, for a moment, sir. I've been accused over the years of being an environmentalist and I am. Mr. Wasson threw a little curve into the situation tonight when he alluded to the fact that we have not a seven-acre lake, it's a five. I assure all the residents in Bluegrass would be in a lot worse shape, if we had not put in that five-acre lake. Because we hold back and gradually release through a properly release tube, water into that lake. So the

five-acre lake is not...is one of the beneficial things in that area. The cover we have on all our land is very beneficial. We own 67 acres out there and--

Commissioner Mourdock: Clarify if you would for me Mr. Schultheis?

Leo Schultheis: Sure.

Commissioner Mourdock: I'm sorry to interrupt you. Which of these lakes you're referring to is the five-acres? Is it this one? This is the subdivision obviously. Is that this lake?

President Jerrel: This is the lake.

Commissioner Mourdock: Two is the five acre lake?

Jim Morley: Yeah.

Leo Schultheis: Yes, Mr. Jarrett constructed another lake over here, three. They're very beneficial to the area.

Commissioner Mourdock: Okay.

Leo Schultheis: This small...this is very interesting with one, you see. Presently, when pond one overflows, it actually goes into that creek. Jim, with his drainage plan will catch that water and move it past anything that would threaten Mr. Wasson's property.

Commissioner Mourdock: From one, your talking about?

Leo Schultheis: Yes. The water...if you come out and look at our lake, it's terribly well done and water is released properly. It probably controls about a 40 acre (inaudible) which is very beneficial to the area. So I didn't want...I don't know how Mr. Wasson interprets it that way, but if he had been there when we built it and had seen you know, the value it's been to the neighborhood, I think he may have seen that situation differently. I really think with Jim's drainage plan we're actually collecting the water properly and moving it down past the threatened area certainly where Mr. Wasson is. Where Mr. Wasson's house is built, I would announce to the world, there should have never been a house built there. Thank you.

(Inaudible-comments made away from microphone)

President Jerrel: Yes.

John Wasson: I may need to refer to Mr. Jeffers' map again. That lake number two which he says is five acres and I certainly agree that, that lake if it catches water and holds it above a daily occurrence, you know it's full right now and the head of Levees and Dams up in Indianapolis told me that if a lake doesn't have a siphon sort of discharge, if it's just a pipe or just a spillway then it has zero effect on retaining water in a big event. In other words, the water of the lake is viewed as virtually full if it rains on that five acres it runs off that

five acres right into the creek in question. If he were to put a siphon sort of discharge that would pull his water level down five feet and then it catches five feet in a big event, that would be a different sort of discharge and I can't...I don't believe, and unless he tells me that's how it's designed, it seems to be just a straight pipe into the lake. It's just a type of overflow. It's not a siphon down kind of discharge from his lake. The second matter, besides the design of the lake, I ask you to defer your judgment until the state has a chance to review the design and construction of that lake. The levee appears to me, to be 30 feet above the center line of the creek that it dumps into. That would be about ten feet over the legal limit without a permit or design review. But this area that I refer to for a dry lake, and if you have another subdivision before you today, and of course I have more before you are to speak to those folks, but they're downstream of us here on 41 this Fretina or whatever is on the agenda.

Commissioner Mourdock: Fretina. And you'll need to stay closer to the mike because our sound system is on at the moment.

John Wasson: I'm sorry, I wanted to use your map here for just a moment. They likewise, are downstream of this and the creation of a dry lake, which is what I urge and what I think is good engineering practice. I'm going to step around the mike for a minute. The watercourse is this blue line that runs across and there's a green area on this map. He has almost a nice partition I'm going to estimate, two-acre area there that would be very easy to excavate to the depth of the creek bed and therefore create a retention facility, a dry retention facility that poses no safety hazards, requires no maintenance. He tells me, he's going to leave it in native form in any case. He wants to leave it's trees and bushes and that's a good use for it. But it would be better...it would be a better use for the whole drainage basin, which you folks represent, to have a dry lake there. Slow this watercourse up in this area that Mr. Jeffers has outlined and hold back that water from all of your problems downstream. Not just this immediate vicinity and since he's proposing a subdivision I think it's a proper thing to ask, that he create that sort of retention facility and you know, it's sort of the price he pays for the development he's making. I have no objection to his developments, I just want to see the drainage improved in this basin, and I also would like to see his dam reviewed and the dam design, unless he tells me it has a siphon type overflow, it has no benefit at all in a rainfall, none.

Jim Morley: That's not true.

John Wasson: Excuse me?

President Jerrel: Mr. Jeffers, I have a question. What about the dam and the lake it's not...is that part or not part of our purview?

Commissioner Mourdock: No.

Bill Jeffers: The dam to which Mr. Wasson is referring and which is labeled number two, lake number two on this county map, is

not a part of the subdivision we're reviewing. I don't believe our Board or your Board or our office has any jurisdiction over lakes, unless they come in as a part of a development plan.

President Jerrel: Okay. Yes, Mr. Schultheis.

Leo Schultheis: To keep things in proportion here, we're asking for a one lot subdivision. It was approved in '86 under a five lot parcel, so keep that in mind. We're asking for a one lot subdivision with proper roads, drainage, ground cover, we have excellent ground cover out there which slows down any water. So I want to keep things in perspective here. We're not putting 20 houses back there, we're putting one house. The anticipation is, if we changed that, we'd have to come before this Board. Our long-term anticipation is that it will be a seven-acre living circumstance.

President Jerrel: Yes.

Don Mills: I believe Mr. Morley referred to his design as a 25 year flood plan, if I heard him correctly. If you'll look at his drainage plan right here, you'll see that everything is based on 100 year floodplain or at least it was supposed to be done. You see it's referred here, here, and here, and all the way around and that's the way it should have properly been done to begin with. Now if it was done that way, then I apologize to Mr. Morley, but I have not seen any drainage plans, any calculations, so I can't make judgment on that. I can make a judgement on the fact that my property floods and several others do too and that's what I am objecting to tonight, is anything that might have contributed to that and cause it to be in excess of what it already is. Thank you.

President Jerrel: Any further questions for the Board?

Commissioner Tuley: Bill, I never did hear your offices recommendation.

Bill Jeffers: Gee, thanks.

Commissioner Tuley: Sorry.

Bill Jeffers: Pat's been around awhile and I have slipped a couple of those past him over the years.

Commissioner Tuley: Kind of feel like sitting on this side tonight, don't you?

Bill Jeffers: Yes. The Bluegrass Farms, I think we're confusing... I think Mr. Mills may be confusing the 100 year floodplain. We require that a 100 year floodplain elevation and the extent of the Zone "A" as defined by Firm Panels is demonstrated on all drainage plans. That's what is shown on the original plan for Bluegrass Farms, the extent of the 100 year floodplain that FEMA claims the land that would be inundated under a 100 year event, must be shown on our account...on the plans that are submitted to our office. However, the pipes were sized as all other pipes of that time and pipes today for the

county are sized. Anytime a pipe goes under a dedicated county roadway or a road in a subdivision is going to become a county roadway they're sized to handle a 25 year event up to watersheds having one square mile or more, then we go to a 50 year sizing. That follows pretty much an old state standard. I think the state may still do it that way. We know that 25 year storms will be exceeded. Back in 1986 the 100 year or the 25 year...the rainfall intensity for a 25 year storm was lower than it is today. Because the new rainfall data that's been published by the National Weather Service indicates that a 25 year storm has higher intensity in the second part of the century than it did in the first part, so the pipes are even smaller in Bluegrass Subdivision than they were before you know, relatively speaking, than we would make them today. Also in 1986 we had not yet...the Commissioners had not yet passed the Drainage Ordinance of 1986. That did not occur until November. This plan was approved in September of '86. There was no detention required of Bluegrass Farms. There are no detention ponds in Bluegrass Farms. We attempted to get detention basins during the review phase and the developer resisted. Mr. Morley has also brought up Tall Timbers and I hate to dredge up those memories but we also attempted to stop Tall Timbers from ever being built with it's current drainage plan and we're not successful in that either. Tall Timbers has no detention or no significant storm water control of any kind and has very steep street grades exceeding 14% in some cases. So yeah, there's a lot of things that are problems out there and Mr. Morley is correct, the majority of the increased runoff in this watershed, if it truly has been increased in the last decade or last 12 years, is originating in what I'm calling Tall Timbers. That is the most...that is the area that was the steepest, it was covered with a dense forest, much of which was removed and several houses were placed in there. So I'm not familiar with Mr. Schultheis' lake, which I've labeled two on this map. I do not know what kind of freeboard it has. I agree with Mr. Wasson, if it's just open flow and no freeboard at all, every drop of rain, or not every drop, but 90% of the rain that falls on that five acres is going to run off. However, if there is any freeboard or if he consulted the Soil Conservation Service and he has designed a lake with some freeboard it may have improved the situation downstream. I also agree with...or I would concur with Mrs. Jerrel's statements because I was called to look at flooded situations in the spring of '96 in this immediate area. However, I did not view Bluegrass Farms. But I viewed other streams that come down out of steep headlands and woodlands and I'm sure that exactly what happened in Strawberry Hill and other places, Old Pete, also occurred in Bluegrass. It's the same watershed, same situation. The question that I'm avoiding answering is what our recommendation is. The problem here is that I've been made aware in the last day or so that this plan was approved for a five lot subdivision in 1986, final approval and it went to construction and was not completed. It now comes back to us as a one lot subdivision and until I see different, I must believe that Mr. Schultheis intends on using it to construct one dwelling because he shortened that cul-de-sac and the only way he can go back and subsequently replat and subdivide this would be to have the lots fan out from the head of that subdivision and I just can't see that he's going to get...you have to have at least 40 or so, 50 feet of frontage--

Commissioner Mourdock: Sixty.

Bill Jeffers: Well, back at the building line. You know what I'm saying?

Commissioner Mourdock: Oh, I thought you were talking about the cul-de-sac.

Bill Jeffers: Yeah, at the cul-de-sac. They allow you to measure that 60 feet back at the building line, but I still don't see how you can get more than two or three lots out there. I mean, he's forcing himself to build one or two houses here, at the most.

Commissioner Mourdock: Let me ask a question if I may Bill, not of you but, I realize more often than not when remonstrators come before this Board and say, oh we need more time to look at the information, what they're really saying is, no, no, give us a chance to come back next month and have maybe not any different reason to react, but thinking just by deferring they're going to slay a project. I've heard you say a moment ago, as our technical consultant, that the idea that Mr. Wasson proposed may have some merit as far as the dry lake type idea. I heard the gentleman make the comment about not having a chance to see any of the calculations that were involved with this. I do have a pet peeve when I sit on this Board or the Commission Board or the Area Plan Board, anyone of those, that too often people have to come in and they haven't had a chance to see the information that's being presented. Having said all that, Mr. Schultheis and Mr. Morley, would you be agreeable to allow more time to let this thing be seen, or does that matter to you? Will your...is your desire still to go forward with it at this point?

Bill Jeffers: I think that would be a question that should be directed directly to Mr. Schultheis, as it's his project on the line financially.

Commissioner Mourdock: Okay. Mr. Schultheis? I don't mean to put--

(Inaudible-comments made away from the microphone)

Commissioner Mourdock: Surely, yeah and if you like we can move down the agenda and come back to this one if you need more than a minute or two.

Commissioner Tuley: Well, I want to ask Bill a question while he's up there. Tall Timbers '86, you said we tried to stop it? What, I mean, your office recommended--

Bill Jeffers: Our office was very much opposed to that project not having detention facilities and for the grades being that steep on the roadways out there.

Commissioner Tuley: But the Commissioners at that time went ahead and approved it?

Bill Jeffers: There was no...there was no legal way for us to--

Commissioner Mourdock: Deny it.

Bill Jeffers: --deny it, because all detention was voluntary back then and the developers basically let it be known they would take whatever measures they had to--

Commissioner Tuley: It met the ordinance in place at the time?

Bill Jeffers: Right.

Commissioner Tuley: My point to this, you let everybody know I've been here for a while but I wasn't here then.

Bill Jeffers: No you weren't, I remember that, you weren't there then, but it's just bad memories. I can say a whole lot of other things too. Do you want to start saying something about Mr. Schultheis?

Commissioner Mourdock: We'll give Mr. Schultheis his chance at the microphone right now if he likes.

Leo Schultheis: You know, I'd very much like to have this project approved this evening, but with paid deference to the County Commissioners, if you need more time to get comfortable with what we've presented, then I want to honor that, because I think that's being fair the judgement you need to--

Commissioner Mourdock: My point in making the suggestion and again, I want to emphasize that too often I've seen people come in here trying to slay projects or slay development just by stretching it out and that's not my point in making this suggestion. I want to see if, in fact, there is some middle ground between the several engineering alternatives or at least the discussions on how the drainage numbers work out and such. I'd like to see people at least try to talk about that.

Leo Schultheis: Alright.

Commissioner Mourdock: Maybe it cannot. Maybe there is no middle ground to be reached. But it might be the easiest way to help us get where we need to be.

Leo Schultheis: You seem to need that time, so that's what we want.

President Jerrel: Okay, let the record show that Mr. Schultheis agreed and this will be delayed.

Commissioner Tuley: Bill?

Joe Harrison, Jr.: Until next month?

Commissioner Tuley: Not to make light of things but, looks are deceiving and you don't look like a tap dancer, but you just did one hell of a job.

Bill Jeffers: I've been to a circus and seen elephants dance.

Commissioner Mourdock: I thought he was running for office, the way he gave that answer.

Commissioner Tuley: He never did say.

Bill Jeffers: I might not next month.

**Bon Daal Subdivision - Drainage plan approval**

President Jerrel: The next item on the agenda is Bon Daal. Is that correct?

Commissioner Tuley: I'm confused by that one. That one looks like it's in the city. Why are we--

Bill Jeffers: Well no, actually it's just...the city limit is at that point is Green River Road and Pollack Avenue. That area south of Pollack and east of Green River is in the county. There's a little piece left.

Commissioner Tuley: Bon Daal?

Bill Jeffers: I believe it's south of Pollack and east of--

Commissioner Tuley: This...on this staff field report and maybe this is why I'm confused is southwest corner of First Avenue and Koehler Drive in the city of Evansville.

Bill Jeffers: Oh, I picked the wrong one. I'm sorry, there's another subdivision out there where I'm describing and it must have a different name.

Commissioner Tuley: Okay.

Bill Jeffers: It makes no difference, they didn't bring their drainage plan in today.

President Jerrel: That's where I ride my bicycle and I know all about that, so when we get ready to talk about this, I know exactly...I know every little--

Bill Jeffers: You know just how flat it is, don't you?

President Jerrel: I know everything about it.

Commissioner Tuley: On where now? The one we're getting ready to talk about?

President Jerrel: South of Pollack and--

Joe Harrison, Jr.: We're not going to do it.

Commissioner Mourdock: Oh.

Bill Jeffers: I picked...it must be on the Area Plan agenda, right below Bon Daal.

Commissioner Tuley: Okay.

Commissioner Mourdock: So, we are not doing Bon Daal?

Bill Jeffers: No, never. It's in the city.

President Jerrel: Okay.

**Heartland Ridge - Modifications to a previously accepted plan**

Commissioner Mourdock: Heartland Ridge?

Bill Jeffers: Okay, Heartland Ridge Subdivision is another subdivision which you previously approved. I don't know if all three of the current members were on the Board at the time, it was just a few years ago...a year or two ago. It was approved as a dry lake in Heartland Ridge Phase Two. So I have all the old original plans showing you the location of the dry lake, outlined, dry basin outlined in orange. It only covered the back portions of the back yards of 51 and 52, Lots 51 and 52. Okay, and here's a larger picture of it. This is the approved...from the approved plans, it shows you the exact grading details of that basin at the rear of Lots 51 and 52. That would have been a dry basin. I think for marketing reasons, that's the only thing that's been expressed by the developer, Mr. Haas, The developer of Heartland Ridge Phase Two would like to make this a nice elongated curvy lake. This would be a permanent standing body of water and it will extend up onto Lot 53. That way you would have three lake front lots. So his request is to allow you to change the approved drainage plan. This was a final drainage plan, so that he could have a wet lake on all three of these lots, as opposed to a dry basin on two. Otherwise, the drainage calculations remain the same and he's storing the same volume of water in the new basin as he would have been storing in the old one and we recommend approval of his request to change that. That's Heartland Ridge Section Two. Mr. Nicholson was the designer of this project and he is here. The calculations showing that the storage volume is the same, were made on this piece of paper and submitted along with that.

President Jerrel: Is there anyone here that wishes to speak about this project?

Commissioner Mourdock: I'll move approval of the redesigned final drainage plan then, for Heartland Ridge Phase Two.

President Jerrel: Is there a second?

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Matrixx / Replas - Preliminary drainage plan approval**

Bill Jeffers: I think we've added one more to the agenda.

President Jerrel: Matrixx?

Commissioner Mourdock: Right.

Bill Jeffers: Matrixx, which I think may also be called Replas R-e-p-l-a-s. It's been submitted both ways. At current time, this is a one parcel large industrial development, just north of Pittsburgh Plate and Glass.

Commissioner Mourdock: PPG.

Bill Jeffers: PPG yeah, and south of Azteca. There's still a remaining piece of farm ground in between this project and Azteca. The calculations were submitted by Andy Easley Engineering on August 26 of this year and then an additional...some additional information was submitted September 10th, talking about some additions and deletions to the drainage plans that was submitted. This went to Site Review Committee this morning and this fellow over here, I'm sorry, you're...?

Roger Davis: Roger Davis.

Bill Jeffers: Roger Davis is the project manager for this project and he was at the Site Review Committee meeting this morning and he would like to get a permit. It requires drainage approval and since it was a substantial project, not one of these little fast food restaurants or something, I thought it would be most appropriate to bring it to your Board. I went back to an old study that was done by Jim Morley Associates, some time in the past couple of years and found that a study for this entire parcel of ground, he's only developing the east half down to the creek. The west half goes on back to the railroad tracks. I found that a study done by Jim Morley and Associates recommended two acre feet of storage for the entire parcel. If it were an industrial development with all that hard surface coverage, would have required two-acre feet of storage. You'll notice that Mr. Easley gives a storage capacity of this facility in cubic yards, what is it?

Commissioner Mourdock: Seventeen.

Bill Jeffers: Seventeen thousand some odd cubic yards.

Commissioner Mourdock: It looks like 1,765.31.

Bill Jeffers: Yeah, cubic yards. Multiply that times 27 for feet...cubic feet and a cubic yard and you come up with 47,000 some odd and divide that by 4,356 then you come up with 1.09 acre feet. He went through a different process and came up with the same answer as Morley. So I figured that was pretty cool.

Commissioner Mourdock: I thought you said you needed two-acre feet?

Bill Jeffers: For the whole--

Commissioner Mourdock: Whole thing.

Bill Jeffers: He's only covering half.

Commissioner Mourdock: Oh, okay.

Bill Jeffers: So, the calculations...that's the way I went about checking them and they check out. In other words, he's giving you a little extra storage and half of the coverage as Morley wanted for the entire thing. I consulted with Mr. Morley this afternoon on that and he verified that. He said, yeah the guy is right on. Okay, the only problem I find with this particular plan is there are no, wherever I have marked E.O.F., emergency overflow. I'm a little concerned that he's taking that huge pipe coming across U.S. 41, what is it, 72x50 inch pipe?

Commissioner Mourdock: Yeah.

Bill Jeffers: Cylindrical pipe, and he's running it through this ornamental lake basin in front, that's not a detention basin. That's ornamental for his purposes and turning it, that old channel used to go right through where the building is going to be, or does and he's turning that huge amount of water through that basin due north and over his driveway and, I'm sure that the state did not size that pipe for a 100 year storm. I would doubt they sized it for much more than a 25 year storm. So wherever I have E.O.F., I'm simply referring to emergency overflow. I think he needs those for his own protection so the water doesn't go through the front of this building. It goes this way and then leaving the site through this way. There's also an issue with regard to county roads that are going to be extended down there. Your Board, as the County Commissioners, is probably going to be asked to participate in road construction. So again, any place where I see a road, and that pipe goes under that road, whether it's a drive or a road or what, I'm asking for a depressed pavement, emergency overflow type situation. I think he has enough information here to give him preliminary approval, let him get his foundation permits, get going and all that. But I would really like to see some final grading details and paving details that show emergency overflow control structures to protect his building and to protect the county's investment in the roadways that may be built and then at the...where he exits the site, protect those people downstream to make sure that the overflow quantity during a 100 year storm is kept in the channel or directed towards the downstream channel. That's all I'm really after, at this point. Everything else looks copacetic and I...our office recommends approval of it.

Commissioner Mourdock: Just a question for Mr...., was it Davis? Are you the project engineer?

Roger Davis: I'm the general contractor.

Commissioner Mourdock: Okay, that's what I thought. So, anything we do then, obviously Mr. Davis as the general contractor, doesn't have the authority to say yes or no to this design?

Roger Davis: My name is Roger Davis. The lake that is now ornamental, was originally designed and that was a change that we made as a retention area. We were not going to have a dry retention around the northwest corner because of the size that needed to be, the owner of the property said, I don't like that,

lets move it, we did downsize the size of that lake and without Andy here, I'm not sure that we still have, but I think we still have about 18 to 20 inches of freeboard on there before it hits that pipe, which you are gaining, in this area, a certain amount of retention from coming underneath Highway 41. It doesn't meet the acre, or the 40,000 whatever square foot that was required, so we did put the acre around in the northwest corner, but you are still gaining over a half acre of retention area before it hits that pipe. That's my understanding and without Andy here, I'm not 100 percent sure of that.

Commissioner Mourdock: Well, for the purposes of preliminary approval, I will move approval of the preliminary plan for Matrixx Incorporated at, what is that 14 something Highway 41?

Roger Davis: Actually it's 15000.

Commissioner Mourdock: Fifteen thousand Highway 41 North

Roger Davis: I'm guessing it's the address, yeah it's 15000.

Commissioner Mourdock: It's right out my office windows.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Bill Jeffers: It better look real good, he has to look at it every day.

Roger Davis: Oh, boy.

Commissioner Mourdock: That's right, and for what it's worth, I've never seen the water flood back out of that 72 inch pipe.

Bill Jeffers: That's good, I mean, that's good to hear. I'm just...and he does have...he's correct in what he's saying. I'm only concerned about the overflow as it crosses these other facilities.

Commissioner Mourdock: Sure.

Bill Jeffers: Everything else looked real good.

<b>Blue Claims</b>
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Bill Jeffers: We have the claims to sign.

Roger Davis: Thank you.

Commissioner Mourdock: I'll move approval of the claims.

Bill Jeffers: Without my recommendation, how about that.

Commissioner Tuley: Those are easy, second.

President Jerrel: So ordered.

Commissioner Mourdock: I listened once earlier tonight for your recommendation, I didn't want to go through all that again.

Bill Jeffers: Now, this has all the paperwork, it's all been signed by the Surveyor, everything is in order and the Surveyor recommends approval.

Commissioner Tuley: I did second.

President Jerrel: I said so ordered.

Bill Jeffers: While you guys are signing that, I still have three minutes to make a full hour and whatever it is.

### New Business

Bill Jeffers: Under New Business, Southwest Engineering which is now Marty Nussmeyer, President, Martin R. Nussmeyer, President and the address is 5900 Oak Grove Road, owns a piece of property on the other side of Stockfleth Ditch that's a part of the...it's always been a part of his property out there. At one time, Rudolph had a batch plant there and they had a temporary crossing at Maxwell...at the intersection of Maxwell and Fairfield Drive and here's a picture of it. The cross hatched area all belongs to Martin Nussmeyer and Southwest Engineering. He's asking for a crossing of Stockfleth Ditch in this letter and when he made that request a couple weeks ago I said it has to go to the Board. The Board must approve all crossings of all regulated drains in Vanderburgh County. He said, how do I design it? I said, you go get your engineer, who you usually use and is Reginald Heck, whose stamp appears on this page, who has done work for the state. He did some design work on I-164. He has designed bridges. I said, you go to the first bridge up stream, which is Oak Grove Road that was replaced by Mr. Stoll's department recently, and as long as your opening is equal to that or larger and that the low concrete beam is at the same elevation or higher, our office will recommend approval of it. Well, coincidentally, Marty Nussmeyer and Southwest Engineering, built that bridge that I'm talking about on Oak Grove Road, they were the contractor for you. So he dragged the plans out, Reginald Heck designed a crossing that's one foot higher, the low concrete is one foot higher and the square foot opening under the bridge is larger than that at Oak Grove Road. He shows you all that on these sheets and we recommend that you approve Mr. Martin Nussmeyer's request under the letterhead of Southwest Engineering for a permanent crossing of Stockfleth Ditch at Maxwell Avenue and Fairfield Drive on his property.

Commissioner Mourdock: Pursuant to the recommendation, I'll move approval of the structure on Stockfleth Ditch. Is that right?

Bill Jeffers: Stockfleth. It's misspelled in the letter. But it's, I believe, S-t-o-c-k-f-l-e-t-h.

Commissioner Mourdock: I'll second your motion.

President Jerrel: I'll say so ordered.

Bill Jeffers: I've seen that ditch spelled every way you can

imagine.

Commissioner Tuley: I can imagine that you have.

Bill Jeffers: Stock Fleth, on some old maps. It was two words, Stock Fleth.

Commissioner Mourdock: On that subject and while we're signing. How does that...about that same point, Bill, it was maybe the first or second one of these meetings I sat in on, we had quite a lengthy discussion about that ditch right by--

Commissioner Tuley: The old plant?

Commissioner Mourdock: Yeah, the old plant. What was it they were looking to do? Put in some new berm? Or reroute the ditch?

Bill Jeffers: Oh, Marty has inherited this piece of property of course when his dad passed away, who was the previous County Surveyor. For years, they've tried to find some way to utilize that strip of ground. Either reroute the ditch...see the problem is, it's so narrow between Fairfield Drive and the ditch and the required finished floor elevations, he'd have to raise the earth maybe seven feet to get up to 387, which I believe is what the finished floor has to be in that area, that the side slopes of the fill for the building pad was too steep. So, he was trying to move the ditch over towards his existing building so that he could have a wide enough piece of ground to raise the building pad. I think probably after they got to looking at it, it may have been too expensive to both move the ditch and import the dirt. But he's always tried to find some way to use that piece of ground. It's right there where all the commercial development is going on and he's not able to use it. The only real way to do it is pipe the ditch and then you get into hundreds, as you know, hundreds of thousands of dollars.

Commissioner Mourdock: I'll move adjournment.

President Jerrel: Is there a second?

Commissioner Tuley: Yes, there is.

President Jerrel: So ordered.

Meeting was adjourned at 7:51 p.m.

***Those in attendance***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Charlene Timmons  
Gary Tucker  
Bill Jeffers  
Bill Nicholson  
John Irwin  
Leo Schultheis  
Jim Morley  
Roger Davis  
Don Mills  
John Wasson  
John Stoll  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
November 24, 1997**

The Vanderburgh County Drainage Board met in session this 24th day of November in the Commissioners' Hearing Room of the Civic Center Complex at 7:03 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

Commissioner Mourdock: We'll call the November 24, 1997 meeting of the Vanderburgh County Drainage Board to order. Several--

Commissioner Tuley: Would you like for the President to do that?

Commissioner Mourdock: Oh, you're right. I forgot. I was president the last hour. Sorry about that.

President Jerrel: It's alright if you want to do it, I need to sign some materials.

Commissioner Mourdock: Some places would call that a coup d'état.

President Jerrel: Or as one Southern Indiana gentleman used to call it a coup d'état.

Commissioner Tuley: I don't know what you want, but you've been replaced.

President Jerrel: I thought I had. I'd like to call the Vanderburgh County Drainage Board to order.

**Approval of the minutes**

President Jerrel: The first item on the agenda is the approval of the minutes which you should have in your packet.

Commissioner Tuley: I'll move approval of the meeting...the minutes of the meeting of October 27, 1997.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**John Irwin drainage hearing**

President Jerrel: The next item on the agenda is the John Irwin drainage hearing. That is a process that we have advertised, a legal advertisement was in order, correct?

Commissioner Mourdock: Yes.

President Jerrel: Okay.

Joe Harrison, Jr.: It wasn't an advertisement. They were notified legally.

President Jerrel: Notified by certified letter or green card?

Joe Harrison, Jr.: Sure.

President Jerrel: Would you want to describe that background again for us, Mr. Harrison?

Joe Harrison, Jr.: Well, essentially there was a petition filed by Mr. Irwin, and I suspect he's here somewhere in the room, regarding an obstruction that he was alleging on a piece of property off of Green River Road, and the petition was filed in the Surveyor's Office. A fee was submitted of \$100.00 and the Surveyor's Office prepared a report, submitted it to the Commissioners or the Drainage Board and a hearing was set for this evening as required by statute and Mr. Jeffers is here on behalf of the Surveyor's Office to proceed forward with the petition filed by Mr. Irwin. I am assuming that there are some individuals in the room that may be a respondent or representing the respondents concerning the affected property or adjoining properties, but I don't know that and I guess we'll find out in a few minutes. You do not have to be sworn in to testify concerning these matters but if you do want to make a comment at all, you'll need to go to the microphone and make your comments to the Drainage Board. The Drainage Board may then decide to make a determination this evening or it may decide to take the matter under advisement for...until its next Drainage Board meeting and make a determination at that particular meeting, and if that's the case, it would be at their meeting in December probably the 22nd I think, would be the Drainage Board meeting in December, if in fact, that's what they want to do.

President Jerrel: Is there anyone here that would like to speak concerning the John Irwin drainage hearing?

Joe Harrison, Jr.: Typically what would be done and I would recommend, is that the individual who is bringing the petition should have...has the burden of proof and that individual or the Surveyor's Office also will need to present their evidence first and then the respondent or anyone acting on his behalf will have to speak thereafter. I would ask that Mr. Irwin begin and then the Surveyor's Office if they have any comments and then anyone acting on behalf of the respondent would then give their presentation.

President Jerrel: Do you have any comments?

John Irwin: I'm John Irwin. I'm the petitioner and I petitioned to have a blockage removed from the adjacent property to me. The Surveyor's Office came out and inspected it and agreed that there is a blockage there and gave you the report. Is there anything else you need from me?

President Jerrel: Do any of the Commissioners have questions concerning the report that we received?

Commissioner Tuley: No.

President Jerrel: Did you want to speak to this?

Unidentified: Was the Commissioner I mean, the--

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Commissioner Tuley: Surveyor.

Joe Harrison, Jr.: Surveyor. Yes.

Unidentified: --Surveyor going to speak?

President Jerrel: You want to hear his comments? Sure.

Bill Jeffers: I'm Bill Jeffers, the Chief Deputy Surveyor for Vanderburgh County. Mr. Irwin filed his petition on September 22, 1997 alleging a petition...alleging an obstruction existed on the property to the east of him. Mr. Irwin lives at 4103 North Green River Road. He's alleging the petition exists on the property with an address of 4105 North Green River Road. We prepared...the County Surveyor's Office inspected the site on Tuesday, October 22, 1997 and confirmed in this report that an obstruction exists in the natural surface watercourse at 4105 North Green River Road, and that the obstruction basically consists of dirt spoil that was removed and piled in the natural surface watercourse in order that the owner of 4105 was able to construct a building at that site. Does anyone here need a copy of that report that hasn't gotten one? Subsequent to your last Drainage Board meeting, the Board received the report...we received from Mr. Joe Harrison, Jr. your counsel...legal counsel, this material that shows that the proper notices were sent to the involved parties and these are all the original copies along with the green cards, the returned receipts that come back through the postal service, showing they were received by those individuals and the other paperwork documenting that the proper notice was made at this hearing. I'd like to turn that over to the...your Recording Secretary at this time to be entered into the permanent record in this matter.

Joe Harrison, Jr.: Do you also want to submit your report as well, or a copy of your previous report?

Bill Jeffers: I'll submit another report to your secretary.

Commissioner Mourdock: You said another. That is just a copy, right, Bill?

Bill Jeffers: That's the copy. I submitted the original--

Commissioner Mourdock: Right, okay.

Bill Jeffers: --at your last meeting, but another copy might be appropriate at this time. Then also subsequent to your last meeting Pastor Dennis Engler, Word of His Grace Fellowship Church, which occupies the property at 4105 North Green River Road, where the alleged obstruction exists and where we have documented that an obstruction in fact, does exist, submitted a sketch of a site plan he intends to take to the Area Plan Site Review Committee which indicates to me, that the reason that the dirt spoil was left in the natural watercourse is that he intends to extend his existing building approximately 18 feet farther to the south and across the natural surface watercourse. We also spoke on the phone...Mr. Engler and I, spoke on the phone about this and he intends to include in his submission to the Area Plan Commission, a way to route the water from his

building and from Mr. Irwin's property around his two buildings and into the ditch or natural surface watercourse that flows through his property and off-site. This came to me today. What I've done is highlight the approximate location of the natural surface watercourse which presently is blocked by the dirt spoil on top of his sketch. The reason I submit this at this time is this may indicate that Pastor Dennis Engler is willing to work out this situation through the proper channels going through Area Plan Commission Site Review Committee with a drawing of what he intends to do by expanding his existing building and route that water around the outside of the building, and back into the natural watercourse as it lies on his ground.

Commissioner Mourdock: That being the case, Bill, is it appropriate basically to allow you to have the time to review that, to do the hydraulics check to make sure that it's sized properly? Is that the logical next step for us?

Bill Jeffers: Well, I'd still like to see the Drainage Board make a finding that an obstruction exists so that when this drawing does come to the Site Review Committee I can inform them that we must make sure that the...for example, Mr. Engler shows an 8-inch pipe and I'm not sure that will handle the water that comes out of those fields there.

President Jerrel: May I ask a question?

Bill Jeffers: Yes, you may.

President Jerrel: When will the next Site Review Committee meeting be?

Bill Jeffers: Site Review Committee meetings for building permits are held every Monday at 9:30 a.m.. The site plan must be submitted by a certain deadline which I believe is Wednesday preceding that Monday.

President Jerrel: So this might not be for another week then?

Bill Jeffers: It may not be for several weeks until Mr. Engler is ready to submit it.

President Jerrel: What I was going to suggest is perhaps we could ask our attorney to develop two or three different scenarios based upon findings of fact that we have up to this point. This could be one of them and submit them to his next Drainage Board meeting or we could convene if we needed to for some reason in a special meeting so that we could have something for the record.

Commissioner Mourdock: I guess the question I would have, using Bill's words of a moment ago, it looks like something will be worked out here that the church or Pastor Engler is at least working in the direction to do that. Do we want to do an actual finding with that being the case, or let this take its course?

Joe Harrison, Jr.: I think you just may want to hear them out and see what they are going to present. You'll probably want to hear from...I don't know if this is the pastor. You'll probably

want to hear them out and see what they want to say.

President Jerrel: Okay.

Pastor Dennis Engler: I'm Pastor Dennis Engler, Word of His Grace. We constructed a building 30x40 about this time last year. We got a variance because we found that our property, even though we're at 4105 North Green River Road, we're 1,500 feet off of Green River Road and so our east side according to, I guess the laws, there's 25 feet variance that has to be back. So we made a petition to have that rescinded to two feet and then when we put our building we put it back five feet to give us a little distance there. We started that project and have been working on it through donations and laborers from the men in the church. Then we wanted to extend it so that we could have a little more room so we made another petition which had to go through all the filings again because we thought when we filed that we would have our whole frontage recessed to the two feet. Well, just the building, so we had to go through all that process again. During this, we didn't finish a lot of the construction because we were waiting to see what...getting the variance and all that, we haven't been able...didn't put up the gutters and all that. Each time that we've made a petition to have a variance, Mr. Irwin has, you know, reluctant about us building anything there on that property. So it's been an ongoing situation between him and us and I really don't know what the depth of the problem is there. So we've got the approval. After we got the approval within, I think it was in 30 days maybe a little longer, then I got a letter making demands to remove this dirt around our building and I wasn't going to do anything until I had gotten some information from the Building Commissioner, Roger Lehman, on just what we could do to make the building that we erected to meet the codes necessary for the interior work that we were going to do and so with that, then we started to proceed forward doing that and then I get a notice from him about this letter. I have been...I have a...we don't have a VCR but I have taken pictures in the rain of the water that's standing and I have some...we did some shots from transit to get our elevations and stuff and I've got some dementions here and where the water basically stands is that...on his property, is that he has some valleys and it stands there. When water rises up enough, then it drains over into our property and then on out to a ditch. When we put the dirt back there, we even cut a little ditch, the gentleman that's with me, Frank, he shoveled and made a trench just so that we would get some of that water drainage out. Even with us putting some tile or anything there, that's not going to take care of the problem that stands on his property because it's at a much lower elevation and I have some documents here that we took showing this and I have it on film and I would like to...I could leave it and let you see it because I didn't know if there was one here or not but, you could see the water standing on the property. I've tried to lay out here distance-wise as we measured it, the elevations and the area around his garage is where the water is standing. It's much lower than the rest of the surface that's on the ground that's around and about us and so I'm...we've never had any intentions not to, you know, make the water drain properly or put the gutters on and filter the water where it should be but I don't feel, you know, that when

someone tries to make judgements on things that...against us. I feel I have to stand up for what is right and the thing that I understand from the whole building section of the property is that at one time the property that we're on was part of...his house was part of this property. They sold that lot to him. So whoever had it previously which I think, Bill Butterfield and the Tri-State Racquet as it started, probably cut away in there and there was no separation when he bought the property of any ditch or any drainage to separate the two pieces of property. Now on his east side toward his other neighbor, there is a ditch there between the two properties. I think that would only be fair that if we're forced to do something that there would also be something there that he would have to pay some expense to putting a ditch in order to keep it all from running on our property which, you know, his is lower so it naturally builds up and runs over, that he would work in conjunction with us to eliminate some of his too. We're not against doing something for him, but everything that we've tried to do, he has bucked us on. We had a situation that was worked out when the driveway that is for an entrance from Green River Road, even to all of us, the 1,500 feet there, was going to be blacktopped and he raised caine. He didn't like the fact that they...the construction of Koester put on a...started to put a culvert in to put the dirt on the property, he stopped it and then the neighbor said well just put it on my property so we ended up not having a blacktop road, which is part of the deal that was arranged even before we moved in this thing. So, what I don't understand is where the consistency or why he...every time we do something, he wants to give us some problems when none of the other neighbors we have any problems with. We're willing to work with it and to make sure that the water is...I know that from a construction standpoint, we've got to have gutters and we've got to get it where it's draining. I don't feel like, you know, that we've been...we've been wrongly accused of something that is really not as much totally ours as it is on some of his own property. He needs to work on his own drainage and his own field. I have some pictures here. I stood out in the rain to take these. Those are the only copies I have but, you can see some of the corner of the building and the wood pile, there's no water standing there and where the drainage that's supposed to be natural there's no water there. There's a puddle next to his garage and things that's standing and once it fills up, it naturally runs over to us. There needs to be on his part, something that's done and not put all the blame on us. The dirt that is up around the garage, it's some 35 feet away from his garage. From our property line, we're about seven feet over and then there's about 25 feet to his garage. There's water that's standing there that when we...when I've been out there in the rain and took the pictures, there was no obstruction from that dirt that would have kept it from naturally flowing. We went ahead in early stages and even dug a little trench so that any water from that would go on into the ditch itself. That's...some of those pictures show that. If you'd like to see the video tape, I have that, I can leave it but I would like to get it back.

President Jerrel: You've heard Pastor Engler's description and you've also heard Mr. Irwin's comments and you've heard the findings of the Surveyor. Is there anything else you'd like to know?

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Commissioner Mourdock: Just one quick question for Mr. Engler. I want to be sure to what Bill Jeffers said is correct. He said that this plan that he just submitted today is in fact what you intend to take to Site Review as you continue this thing through the process, is that right?

Pastor Dennis Engler: Yes, we want to put an addition on there for our outreach vehicle and we know we have to get the gutters for the water to drain. So we are going to take care of that aspect of it.

Commissioner Mourdock: Okay.

Pastor Dennis Engler: I think that's not going to keep this water off of his property that's standing until it fills up and then runs over on our aspect, on our part.

Commissioner Mourdock: I understand, yeah. If it's on his property until it crosses the property line, it's no ones problem if they choose not to declare it a problem.

Pastor Dennis Engler: Right. On those pictures there, you can clearly see that there's water...as his is building up, how it starts trickling over.

Commissioner Mourdock: Okay. With Pastor Engler's statement that he's intending to go to Site Review to continue with this and given what Bill Jeffers had said that he thinks that this may be the start of some sort of resolution, Joe, as a matter of course do we need to have a declaration of obstruction here or should we just let this process continue?

Joe Harrison, Jr.: Well, you can do one of two things. You can either make some findings today or take the matter under advisement and make a determination at your next Drainage Board meeting. I wouldn't think it'd be prudent to take anymore information or continue the hearing until that later date. I think you'll have to take his word if he's going to submit this as is to the Site Review Committee. I think you've gotten enough information in front of you to make a decision. One way or another, whether there's an obstruction actually blocking the watercourse at this point. But--

Commissioner Mourdock: If Site Review in fact says that this is a workable plan and they put this plan in effect prior to the next meeting or whenever, does that then cause the obstruction proceedings to be moved?

Joe Harrison, Jr.: Well, not necessarily. If--

President Jerrel: Wouldn't that be one of the findings?

Joe Harrison, Jr.: Yeah. If by chance you would make a finding that there was an obstruction, at least you would probably...at least at some point that obstruction would have to be moved by either the petitioner, or the respondent at his own cost or by the County billing the respondent. So, it'll be one of three things. There's testimony in front of you right now. You can make findings as to whether or not there is an obstruction

blocking the watercourse or you can take it under advisement and rule at the next meeting which would be on the 22nd. There's got to be a ruling one way or another from this Board as to whether or not there's an obstruction or not and if there's no obstruction then you find against the petitioner.

Pastor Dennis Engler: We have to, you know, when that addition is on there, we'll have to level that out so that we could put our concrete--

Commissioner Mourdock: Right, and I understand that and it's my feeling if we ruled on an obstruction tonight then they are obligated to correct that problem--

Commissioner Tuley: Quickest way to solve it.

Joe Harrison, Jr.: That's right.

Commissioner Mourdock: That's right and they may have to go out and do the work. In fact, if they're going to do this then are they not effectively having to do two things instead of one? I guess maybe it's going to work out the same.

Joe Harrison, Jr.: I don't think so. I think that if by chance you...if there wasn't a ruling tonight, and you ruled at the next meeting and the petitioner is agreeable with whatever is going on, certainly he has every right to withdraw his petition if in fact, that would ever happen. That would be the only way that this Board would not be in a position to make a ruling one way or another is if the petition was actually withdrawn.

President Jerrel: Would the earlier recommendation that I made that this Board take this under advisement and the Surveyor's Office submit the opinion as to whether the dirt is an obstruction--

Commissioner Tuley: He's already done that.

President Jerrel: --in writing, you've done that.

Joe Harrison, Jr.: It's already been done.

President Jerrel: Yes.

Bill Jeffers: Can I make one comment?

President Jerrel: Yes.

Bill Jeffers: What I think I...from what Mr. Harrison just said, I'm thinking possibly he's...he may not be indicating it but it may be a course of action you could take. If you take this under advisement for 30 days and Pastor Engler's site plan resolves the problem without you declaring or finding that there's an obstruction then you're saying Mr. Irwin can withdraw his petition. If he withdraws his petition, can he get his \$100.00 back?

Joe Harrison, Jr.: That's up to this Board.

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Bill Jeffers: So, he may be willing to wait another month to find that out because it looks like Pastor Engler's plan, with some adjustments will fix the problem.

Commissioner Mourdock: Quite honestly, I don't know that it would have any effect. I hate to have this go to Site Review with a ruling of obstruction hanging over it as some sort of negative.

Pastor Dennis Engler: We can't do anything until we get some release on that.

Commissioner Mourdock: Right, yeah.

Pastor Dennis Engler: My concern is that even with what we've got, that's not going to correct the water that's standing on his property.

Bill Jeffers: That's a separate issue.

Commissioner Mourdock: That's a separate issue, yeah. For those of you in the audience who think this must be a bunch of idiots here, let me explain. This law went into effect last July, a year ago in July. This is only the second one of these that have come up and as far as we know, only the second one in the state and we've been fortunate enough to get both of them. So, that's why there's a lot of untried legal water here. I'll move that we defer this matter one month to await the pending of Site Review and deal with the issue at the December meeting.

Commissioner Tuley: The only question I haven't heard asked yet, when do you plan on taking this before Site Review?

Pastor Dennis Engler: We've turned in that very thing to the Area Plan Commission and they have--

Commissioner Tuley: Okay, so it's an ongoing process right now?

Pastor Dennis Engler: Yeah. I didn't do anything until I talked to the Building Commissioner, Roger Lehman, on what aspects we could do and what we couldn't do and then we put some things together of what we thought we wanted.

Commissioner Tuley: I'm willing to continue it for 30 days to allow you to try to get this through the process and maybe at that time, the obstruction is gone and it's a mute issue. So I'll second your motion.

President Jerrel: Okay, and I'll say so ordered. But if it isn't solved then we need to be prepared to act on the findings of fact as we know them.

Commissioner Tuley: That's right.

President Jerrel: Maybe we ought to have those findings and facts as we know them available...your information, so that we could...if it doesn't solve the problem, we can act.

Commissioner Mourdock: Yeah.

President Jerrel: Okay.

Pastor Dennis Engler: They would reject what I have, is what you're saying?

President Jerrel: Yes, and we need to because the obstruction has been identified by Mr. Jeffers and the petition was filed by Mr. Irwin. We have to act.

Pastor Dennis Engler: Okay.

President Jerrel: We need to act upon the facts that we have at our disposal, and right now the only facts we have is the identification of the obstruction and now the new information that you've brought to us. So we should have that in such a form that we can be prepared to act.

Commissioner Tuley: I'm speaking for one. I would be willing to think that if this goes through, this will correct the problem and you can come back in here in 30 days and that could happen. I'd be willing to return his \$100.00 to him and forget this thing, if in fact that happens. But like you say, if that doesn't, if this doesn't happen within 30 days, at least the approval of it, knowing that the plan is going full force, then we'd have to act on it.

President Jerrel: We just need to be prepared to reach a conclusion that will benefit everybody or we need to be prepared to act on what facts we have.

Pastor Dennis Engler: Can I leave the tape, the video tape for anyone to look at it because I think it's important to be able to see the site--

President Jerrel: We have a VCR. We could view it.

Commissioner Tuley: We can look at it.

Bob Hollander: My name is Bob Hollander. I'm a member of the Word of His Grace Fellowship. I went out with Pastor Dennis today and I'm a licenced contractor. We just...what you saw there in the grades that we shot, if you'll look, along that whole entire property line, about a 50-foot section, all of the elevation on the gentleman's property is lower than ours, not just the little dirt pile. What he's trying to say is, what I think is, we're willing to redo our drainage from the building, but if there's any added expense as a result of his water problem that we would like to work together with him in that added expense.

President Jerrel: I think everybody understands that.

Bob Hollander: Okay.

President Jerrel: He specifically spoke to the obstruction. It's a real specific law. The dirt.

Bob Hollander: The dirt pile?

President Jerrel: Yeah.

Bob Hollander: Okay. Well, the whole property line is that way. The natural grade level.

President Jerrel: Right.

Bob Hollander: Okay. I didn't know if everybody had understood that.

President Jerrel: Yeah, that's right.

Bob Hollander: Okay.

President Jerrel: Thank you.

Commissioner Mourdock: Thank you.

President Jerrel: Yes, Mr. Irwin.

John Irwin: Just to keep from beating a horse to death. Prior to when the garage was there, I didn't have any problems. The water drained. There is a law that says they can't block it, and that law is clearly broken. Now, if this new plan is going to take care of that problem, hooray for everybody. I'm satisfied. But if it does not, and it isn't in before the spring rains come, I'm sunk again.

President Jerrel: We understand that.

John Irwin: Okay, Thank you.

Pastor Dennis Engler: I would like to say one other thing. On the video I took pictures of a variety of area around the wood pile, and storage garage that he has there. There's bare spots where water has been standing on his property in various areas. I think that video would help clear a lot of things if you look at it.

President Jerrel: We will.

**Wolf's Bar-B-Q - Final drainage plan**

President Jerrel: The next item on the agenda would be Wolf's Bar-B-Q. It sounds pretty good.

Commissioner Mourdock: Yeah it does.

Commissioner Tuley: Yeah.

Commissioner Mourdock: Sounds real good.

Commissioner Tuley: It's been a long time since lunch, hasn't it?

President Jerrel: It has been.

Bill Jeffers: I told the representatives for this project that this was going to be a long meeting and there would be a lot of hungry people here, and they still haven't showed up.

President Jerrel: Okay.

Commissioner Tuley: They're fixing supper for us.

Bill Jeffers: I don't smell anything that smells like ribs. Basically, this is a building site in Mr. Reinhart's commercial subdivision along Royal Avenue. It's at the corner of Royal and Vogel. Wolf's Bar-B-Q wishes to construct a restaurant there. As you know, their restaurants all require a substantial parking area. There exists along the west line of the subdivision which is on your left-hand side of the sheet, a long narrow detention swale. The pink shaded area already is covered and has a pipe that carries the water from the south side of Vogel, under Vogel and then discharges it into the open detention area. It continues north to Oak Grove Road and then into the Wabash-Erie Canal. What Wolf's is asking is to be able to pave over that pink shaded area which is a drainage easement. It's already covered and has a pipe installed. Additionally, they're asking to pipe the orange shaded area which is an open detention swale. I'm showing the additional pipe in red and then it would then discharge, the water would discharge into the green shaded area which is the existing detention swale that flows north. Because they would be covering up and displacing a certain volume of storage, they have submitted this plan through their engineer and the blue shaded area along the north side of their lot would be excavated and turned into a detention basin conforming to the requirements to our new ordinance with a paved inlet so forth. Way over on the upper right-hand side of the plan you see in orange, that volume that's going to be displaced by the filling and in blue, you see the volume that would replace it which is slightly greater. They're overcompensating for what they're doing and they're asking your Board and we are recommending that the Board approve number one, allowing them to fill that portion that's indicated; number two, to pave over the drainage easement because they will be the sole entity required to maintain that. We won't be required to go in and maintain it, it's a commercial site, and to allow them to make this alteration to their drainage plan by excavating a new basin to compensate for the volume they've displaced. We find everything to be in order and make those recommendations.

Commissioner Mourdock: Is this a preliminary plan, Bill?

Bill Jeffers: This is the final plan. This went through Site Review Committee but it represents a major change in the drainage plan so it requires your approval as well.

Commissioner Tuley: Bill, would they be responsible if that pipe were to crush or break?

Bill Jeffers: They would be solely responsible for the maintenance and repair of all drainage facilities on their property within those easements shown as a commercial property if that's the way it is.

Commissioner Tuley: Okay.

President Jerrel: How many spaces are there?

Bill Jeffers: More than was required by the Area Plan Commission.

President Jerrel: Okay.

Bill Jeffers: They just wanted as many as they could get because they generally fill up and this was the way they were able to do that. I'm sorry, it met all other requirements of the Site Review Committee. We're the last people to sign off on it.

President Jerrel: Is there a motion?

Commissioner Tuley: I would...is anybody here?

Commissioner Mourdock: Any remonstrators here?

President Jerrel: Is there anyone who would like to speak for or against this project?

Commissioner Mourdock: Pursuant to the County Surveyor's Office recommendation, I'll move approval of the final plan for Wolf's Bar-B-Q at Royal and Vogel.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

**Carneal Commercial Subdivision Section 2 - Preliminary drainage plan**

Bill Jeffers: The next plan is Carneal Commercial Subdivision Section 2. Several years ago when this was originally submitted we allowed the front few lots along Green River Road, this is south of Pollack, we allowed them to discharge their storm water directly into the new drainage system for South Green River Road that was improved by the Commissioners at that time, several years ago, because it was adequate to handle that and we're talking maybe four lots out along Green River Road. We required the Carneal developers to find a way to carry all the rest of the water in the future development which is now designated Phase 2 or Section 2, to find a way to gather that up and direct it to the east to Aiken Ditch which at this point flows southeast under Calf Lane and into the pump station which, off the top of my head, I think it's K-2 or K-4.

Jim Morley: It's K-1.

Bill Jeffers: K-1, excuse me. Then it goes under I-164 into Eagle Slough. So, what they've done here is they put...I've shown an off-site easement shaded in green that year...at that time years ago we made them acquire that easement from the farmer and record it, and it shows the record in the Recorder's Office where that document is. Now they're showing you the basin back in the upper northeast corner of Section 2 that's going to detain the water before discharging it into that easement which

goes to Aiken Ditch. I've also outlined the course of all the other pipes that gather the water from the streets and the rear of the lots in Section 2, the smaller lots. What you're looking at...don't look at those numbers because those are drainage basin areas for calculations, those are Lots 5 through 9, the smaller lots in Section 2. They range in size from a third of an acre to three quarters of an acre. That large lot in the middle is Lot 10 and it contains twelve acres. They don't yet know what they intend to locate there, maybe a large facility. So what the plan shows you is that it gathers up all the water from Lots 5 through 9 and carries it through pipes and ditches back to the basin and discharges it into that recorded easement that's partially piped and partially a ditch. All the calculations and other aspects of the plan conform to the requirements of the ordinance and you'll note that the only vague area left open is that Lot 10 when it comes in as a commercial site, will have to have its own site plan approved for drainage through Site Review Committee and through our review. Everything is in order and the County Surveyor's Office recommends approval of the plan. I will say that some...there are some people here in the audience who came to comment on another subdivision in the neighborhood and I don't know whether they have any comments on this particular subdivision which is located on South Green River Road, approximately across the street from Frisse Avenue.

President Jerrel: At this time is there anyone that would like to speak for or against this project?

Mike Feldbush: My name is Mike Feldbush. I'm with AES Engineering. I own the twelve-acre tract immediately south of this. In the next few months we will be presenting plans before the Planning Commission and the Drainage Board as well for the development of 9 to 10 acre commercial subdivision. I'd like to request, and I've not seen this plan, I'd like to request that this Board consider...and I'm not necessarily remonstrating, but that this Board consider tabling this issue until I myself and my firm can do an evaluation on the impact that this has, relative to our property. We do know that there's some cross drainage back and forth on the properties and that...I'd like to have the time to do an engineering evaluation.

President Jerrel: Can you show where your property is in relation to this?

Mike Feldbush: Yes, ma'am. Here's Green River Road. I-64 is right here and we border all along this property and I think...okay, no, we line up on it right here. We have a common corner--

President Jerrel: From there?

Mike Feldbush: Right, all the way to Green River Road.

Commissioner Mourdock: So your property extends from I-64, on the south side, to the south line of this property?

Mike Feldbush: That is correct.

Commissioner Mourdock: How many acres did you say?

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Mike Feldbush: It's approximately twelve acres. We'd just like to have the time to see how this impacts our plans and the cross drainage and so forth.

Bill Jeffers: I'd like to ask Mr. Jeffers. You haven't seen obviously, their site plan? They haven't submitted it yet.

Bill Jeffers: As far as we're concerned, the property they own is undeveloped agricultural or whatever property, and I'd like to point out that this is a preliminary plan at this time, it has to go to Area Plan Commission for the other points that will be reviewed and then come back to you as a final plan. I have much respect for Mr. Feldbush and his engineering abilities, but I would like for him to consider what someone's money tied up for 30 days means.

President Jerrel: Well, this isn't the final plan.

Bill Jeffers: From the same standpoint, you know, this is not a final plan and what you're asking is for this man to tie up invested money for 30 days and during those 30 days you could be reviewing this as a preliminary plan and possibly give your feed back to the developer's engineer, what details should be added to make this a final plan.

Mike Feldbush: Let me make a comment.

President Jerrel: Okay.

Mike Feldbush: Let me make a comment. As a developer, which we will be developing our property as well, I wouldn't want anybody to hold me up. If I understand the process, if we will still have the opportunity to make additional comments, then I would withdraw my request.

President Jerrel: You do and you could also go to Area Plan, too. You'll have the next 30 days to--

Bill Jeffers: With the developer's representative's permission, I can turn over a set of plans to you to give you 30 days to look at if you want.

Mike Feldbush: We'd certainly like that.

President Jerrel: Okay.

Jim Morley: We'll make an additional set of plans--

President Jerrel: Do you want to give your name?

Jim Morley: My name is Jim Morley. We're, of course, not doing anything to block off any of the drainage from that property and we'll make an additional set of plans available, but we certainly want it heard next week.

Mike Feldbush: I'm satisfied.

Commissioner Mourdock: Okay. We certainly have occasions when we get blamed for not coordinating things. I'm glad to see you guys

want to coordinate and help us coordinate and not hold somebody up. Having said that, I'll move on preliminary approval, the drainage plan for the Carneal Commercial Subdivision, Section 2.

Commissioner Tuley: Second.

President Jerrel: And I'll say so ordered.

**Winstead Place Subdivision - Preliminary drainage plan**

President Jerrel: The next item on the agenda is the Winstead Place Subdivision.

Bill Jeffers: Okay, Winstead Place is a residential subdivision proposed on Hogue Road. It lies between Hogue Road and Upper Mt. Vernon, the access beam from Hogue Road. It's about 1,000 feet east of Red Bank Road. It's seventeen and a half acres of hilly ground, partially wooded. The site drains down northerly to Carpenter Creek. They're showing two detention basins that I've shaded and then I've also highlighted in green, the course that the pipes and ditches take as they gather the water from the streets, cul-de-sacs. "CI" is a curve inlet, so each of those is the inlets and then it's piped to open ditches carrying it through the detention basins, and it ultimately discharges it into Carpenter Creek. I've also highlighted in orange the approximate extent of the floodplain for Carpenter Creek and then I've designated Carpenter Creek, I believe, in blue. I have a note there on the plan indicating that there may be a...I know there's a floodway, I don't know to what extent it exists and that will be determined by Indiana Department of Natural Resources and so this is a preliminary drainage plan, meeting the requirements for a preliminary drainage plan and we make the recommendation to approve it with the stipulation that the final drainage plan include details conforming to what the Indiana Department of Natural Resources permitting process for construction in a floodway. That will allow it to go to Area Plan Commission and give them another 30 days or longer to work with DNR in determining what they're going to want from the design engineer with regard to construction in a floodway. The engineer is here in the audience if you have any questions from Mr. Morley, for Mr. Morley.

President Jerrel: Is there anyone that would like to speak concerning this project? Are there any questions from the Commissioners?

Commissioner Mourdock: Pursuant to the Surveyor's recommendation, I'll move preliminary approval of the drainage plan for Winstead Place Subdivision.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

**Schultheis Subdivision - Preliminary drainage plan**

President Jerrel: Ready for Schultheis?

**Vanderburgh County**  
**Drainage board**  
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Bill Jeffers: I'm sure that at least Mr. Mourdock will be happy to know I left my waffle iron at home tonight and I'm ready to go forward with this one.

Commissioner Tuley: You left your tap dancing shoes at home, too?

Bill Jeffers: Yeah, I left my tap dancing shoes, too. This is a preliminary plan for Schultheis Subdivision and what I handed you...I'd like you to direct your attention to the 17x11 size sheets, there's about five of them. What I did here, to get my thoughts together because they weren't really together at the last meeting, was I went back to the recorded plat for Bluegrass Farms and this plat is a recorded document in the Recorder's Office. I made a copy of the northeast corner of that plat that shows...is outlined in pink what is being proposed as Schultheis Subdivision. It's about, I believe six and a half, a little over six and a half acres. On the recorded plat for Bluegrass Farms you see it would have been...or it is presently five lots with a street know as Clayborne Road ending in a cul-de-sac serving those five lots. I assume at this time someone could go out there and get five building permits, build that street and build five houses. That's my assumption as it is a recorded subdivision. Okay, then I've outlined in orange the property owned by Mr. John Wasson which is Lot 38 in this same subdivision. Mr. Wasson had brought to my attention that there was some erosion problems and some water problems coming out of the five lots owned by Mr. Schultheis and causing damage or problems on Lot 38, owned by Mr. Wasson. I visited Mr. Wasson Friday, yeah it was raining, okay, it was Friday morning and he took me on a tour of his property and pointed out basically a natural watercourse that runs along the red squiggly line that I've laid on top of that drawing and I call it a watercourse. As it flows down through this pasture that's presently the undeveloped five lots owned by Mr. Schultheis, it kind of turns into a creek, and there's a line of trees that it runs along and then it turns into Mr. Wasson's property, where I show that the squiggly line turns to the right and heads into the main channel of the creek that I've highlighted in dark green. In fact, when it enters onto Mr. Wasson's property that watercourse is eroded into a four to six foot deep channel. Mr. Wasson...okay, go to the next page. What I've done on the next page is I've outlined again, in pink, the area that Mr. Schultheis owns and I have drawn with red lines the driveway and house location that Mr. Schultheis submitted to us as his proposed location for one house after he converts this five lot portion know as Phase 3 of Bluegrass Creek or Bluegrass Farms. As he converts this through this planning process into one lot that's where he plans on locating the house and he plans on locating a detention...a dry detention basin where I have this crescent shaped red line with the blue indicating that the water will stack up there. He...his plan submitted by Morley and Associates shows calculations that he will gather up the excess generated by his house, patio, driveway and other hard surfaces and it will be gathered in the dry basin and discharged at a lower rate through an eight inch pipe down to the head of the new cul-de-sac which, you can see, has been shortened by a couple of hundred feet from what would have been built had it remained the five lot subdivision. What I've done here is I've outlined in orange the approximate

location of this watercourse that Mr. Wasson is experiencing problems from, and it does show that there's a possibility as Mr. Wasson fears that this watercourse could bypass into that subdivision where previously it would have been picked up and conveyed through the street system. However, the drainage plans submitted by Morley and Associates shows an area drain that I've outlined over here in the dotted green line that I assume is intended to intercept some of that water. When we turn to page three and what we're looking at here is the previously approved drainage plan for Bluegrass Farms that was approved in 1986 by the Drainage Board. It shows that watercourse, now outlined in pink, would have come right into the head of the cul-de-sac and been picked up by those street inlets and conveyed through a 24-inch pipe down to the intersection of Clayborne Road and Bluegrass Road. That's what Mr. Wasson was trying to point out to me when I visited his house, that the previous drainage plans, the cul-de-sac would have reached far enough back up into that property to pick that water up that's causing him a problem. Again, the entire project is outlined here to show you what Mr. Schultheis owns. So, I look back at the new plan that was submitted by Morley and Associates here in the last month or so to see if there was any indication anywhere in his plans that the shortened cul-de-sac would pick up that watercourse and, sure enough, it shows that they've been out to the site and you can see all those little elevation tics that show that they have located that natural watercourse that kind of...that line that I've highlighted in pink is the tree line through which this natural watercourse flows and sure enough, it hits the cul-de-sac up there at the head of the cul-de-sac. There will have to be provisions made in the final drainage plan to pick that amount of water up in that street and to check his pipe sizes to make sure that the 24-inch pipe that he proposes will carry that amount of water, because his pipe system shows that it will carry the flow in the street down to the intersection of Clayborne and Bluegrass just like the original plan that was approved in 1986. So effectively, what this plan does is shorten the cul-de-sac, takes it from the construction of five houses down to one house, provides you with a detention facility to make up for the excess that one house creates, and if the final plan comes back, and in fact properly collects and conveys this little creek down through the new pipe system, it will discharge that water downstream and below the entrance to this existing pipe thereby rerouting it so that it does not any longer flow through Mr. Wasson's property. It will flow past his property and downstream of the pipe that serves his property. Just to make sure that I was comparing apples to apples, I took a new plan...if I can find the sheet that I did it on, yeah, okay. Here's the old plan that was approved in 1986 or a copy of the portion of it that relates to this. Here's the new plan, and I just randomly cut a shape out and taped it down at the same scale over the top of the old plan and then I ran copies of it to reproduce this shape. I outlined it in red on that final sheet, number five and you can see that the new plan, the contour lines match up. The creeks match up. That tree line matches up with that natural watercourse and it shows that all that water that is causing Mr. Wasson a problem that comes through that natural valley is routed into the head of the cul-de-sac and will be piped down to the intersection of Clayborne and Bluegrass and thence across through, I believe, a 30 inch

pipe downstream of Bluegrass Road so that it will not pass through his lot any longer. Now, there are other issues that were brought up in the previous meeting that relates to off-site water outside of this subdivision now being proposed, called Schultheis Sub. There are some other factors unrelated to this project, but our office is simply looking at these...this six and a half acres which has already been approved for construction and for housing, five lots being reduced to one lot and one house on the entire six and a half acres or so. We find, at this time, that it has met all the requirements...the submittals have met all the requirements of the drainage ordinance for a preliminary plan and that we feel that it receives...it does receive the recommendation of the County Surveyor's Office. We feel it should proceed to Area Plan Commission to hash out the other pertinent details that the remonstrators wish to bring up at the developers choosing whether it be 30 days or 60 days, he come back with a final plan that shows all the details that need to be added to this preliminary plan to take care of the issues I brought up tonight about drainage of this six and a half acres. Like I said, there are folks here that I'm sure would like to speak to you.

President Jerrel: Would it be also helpful if we shared this plan with some of them to see?

Bill Jeffers: Well, I gave one copy to Mr. Wasson.

President Jerrel: Okay.

Bill Jeffers: If there is someone else here, we have extra copies. Is there someone else here tonight?

President Jerrel: Alright then, would you like to speak?

John Wasson: My name is John Wasson. I'm a resident of Bluegrass Subdivision, a new one, I've been there four month's. Mr. Jeffers did a wonderful job of explaining my concerns and outlining how the new plan may, in fact, meet these concerns. The preliminary plans I looked at didn't capture the creek that...I brought you pictures, I guess pictures are a common course here. We cleared the area in the past two days and I took pictures of people standing with just their ball caps and heads standing up out of these creeks that don't exist. They're not on the previous plat and they're not on...Mr. Jeffers added them to Mr. Morley's submission. I don't know how he could have surveyed that and omitted things that were six feet deep, but he did. If your Board would approve this plan for preliminary approval and put with it some condition that in fact all of the water that Mr. Jeffers has identified would be contained in that street system, then I suppose my objections would go away, you know. You have correctly identified that, that's where my erosion is coming from. There's an enormous water system here that's been affected by a dam that's off-site and beyond your purview and I asked your Board, I wrote a letter to the state to the Department of Natural Resources, Division of Dams and Levees and they said they would inspect this dam and this off-site area December 3rd. There are really two dams up this valley. I don't want to raise too many issues outside of your jurisdiction, but the dams, in fact, are soft at the foot of the dam indicating to

me the keyway wasn't properly constructed. There are, you know, crayfish holes and you can sink...I was up there a couple days ago up to my ankles where, in fact, it should have been firm and the elevation of the second dam, not Mr. Schultheis', is probably 60 feet above, and I'm an old coal miner so I know what 60 feet looks like, above me full of water. There are two dams above this subdivision and I, at some point, perhaps the Drainage Board would recognize the effect of those on these older creek beds. I can leave these photos with you for your review. There are people standing in these creeks and there are trees...in layman's review of the drainage, there are trees there that are 75 to 100 feet...100 years old. They grew straight, they grew straight up and in recent times they've been undercut and eroded to where they are now laying over at 30 degrees. They're coming down and that's because of an enlargement that's occurred, in pretty recent history of the water flow and the run-off rate in that creek. I suppose it will help my situation and just my situation, to pick up all the water that's been diverted and put it just beyond me, just beyond my street and I guess I'd be remiss if I thought, well that takes care of my problem but I have neighbors throughout this subdivision and I'm on a Board, an Advisory Board for the subdivision, Homeowner's Association. They will be affected by this increased run-off by whatever Mr. Schultheis constructs up here. I've got some comments on the plans that perhaps will be addressed at a later hearing, but just so Mr. Morley might address them before the next hearing. He's showing an eight inch pipe coming in, and I'm looking at your...this is an overflow from another lake in the area. You don't seem to show a manhole there where you're joining the storm sewer system. I just see a junction. I don't know if you intend to put a manhole there, but since this is just an eight inch pipe, if someone introduced a football into that and it came down to a place you couldn't access or clean out then all of these drains that they are saying is the street system, could be blocked by a tree limb or something, without a clean out point. He's not illustrating a clean out point on the set of plans I have obtained to review. I know this isn't a zoning hearing. Those matters are beyond your concerns. This house he is adding here is 2,000 square feet roughly, if I can scale from this drawing. If I look at his tables and how many square footage he is calculating for run off in either Mr. Schulthies' home or the elaborate buildings around his home, are 2,000 square feet. They're all, gee I couldn't guess, they're commercial sized buildings, he could tell me how big they are. I'd guess their cost may be even a half million dollars for a pool house.

Leo Schultheis: I'd hate to interject, but this is not relevant.

John Wasson: They are relevant.

Leo Schultheis: They are not on my property. This has nothing to do with...I object to this conversation.

President Jerrel: Okay, let him complete this and then you can respond.

John Wasson: I don't mean to cast any aspersions on lovely

buildings but they're--

Leo Schultheis: But you just did. Address the issue.

John Wasson: It's a lovely building, but the issue is that every building and every construction that this man of means constructs, affects this run off rate in these ditches in this subdivisions, and that's my point. I've made no comment...negative comments about this design or style or zoning or correctness of his building them, but as he builds them, he certainly can afford them, they are affecting this run off and so he has, in our private conversations, patently refused to make any covenant with any homeowner in our subdivision. He accepts no responsibility for anything he does that affects our subdivision. We just spent \$20,000 on street lights which he will enjoy, but he does not choose to assume any of those costs. Those issues are outside of this. The basin that he has constructed, I'll get right back to drainage, the basin he's constructed here to catch just a portion of 2,000 square foot plan which is a garage in his scale of building. He's got a six acre lot. You can imagine what he's going to do with a six acre lot. It's my concern that if you grant this plan as designed and as submitted that you, in fact, limit him to the size building that he's showing here. I mean, if this is all he's going to build on this six acres then fine, that's the drainage plan...that's the level of drainage that's being supported then make your plan...approve his plan, approve his drainage plan as Mr. Jeffers recommends but, in fact, limit the amount of construction that effects this drainage. Well, I've gone too far perhaps. Those are just respectful suggestions to your Board and Committee and I know I'll have another chance and I think the Board...this is just a preliminary review?

President Jerrel: Yes.

John Wasson: There'll be a final hearing where in fact there'll be other remonstrators present. No one seemed in the Thanksgiving holiday to be able to make this meeting today. I do think the state will report...they said they will inspect the dams December 3rd and they would report back within 30 days. I did write your Board and ask that you postpone any even temporary approval until the state had a chance to look at these unlicensed, unapproved, unregistered dams that effect drainage in some fashion in this subdivision by diverting water if nothing else, into this one waterway that Mr. Morley did find and put on this map. I thank you very much for your time.

President Jerrel: Thank you. Is there anyone else that would like to speak to this?

Jim Morley: The final plans, of course, will exactly reflect as Mr. Jeffers indicated that of the cul-de-sac, and we already have plans prepared for that, is that an elevation with area drains that do intercept the drainage that come across the center of the six and a half acres. There is another ditch that comes in from a subdivision that is essentially straight east of this that don't intercept that, that's what goes through the big pipe. It does...the full intention is exactly to intercept just exactly as Mr. Jeffers has stated and that will clearly be

reflected on the plan. The...I have went to the site concerning the off-site issues that were raised and made measurements of the existing dam that is on Mr. Schultheis' property, not on this property, and find that the dam is very well constructed. It was engineered by Mr. Kent Humbarger of Jasper and I found a very good emergency overflow spillway in ten inch throttling pipe to limit the flow and in fact, Mr. Schultheis has provided for the neighbors downstream, a very significant amount of surface water storage that he had no obligation to do at all. It should be a very significant help to them. We have, I believe with the capturing of this, and of course, I'm sure you all know, 2,000 square feet of roof can cover 4,000 square feet of house if it's a two story. I think that's really not pertinent to what we are here to talk about tonight.

President Jerrel: Are there any questions, Board members?

Commissioner Mourdock: Just one. Bill, on what you have...what you have is a drawing along Clayborne Road. It shows 187 feet of 24 inch pipe. Is any of that pipe in the ground at this point or is that all proposed by them?

Bill Jeffers: None of that pipe is in the ground at this time, except--

Commissioner Mourdock: But there is adequate--

Bill Jeffers: --at the intersection of Clayborne and Bluegrass. There is a stub, a 30 inch stub across the street into which the rest of this will be directed.

Commissioner Mourdock: Okay. There is--

Bill Jeffers: They left that stub out for that purpose.

Commissioner Mourdock: Okay, there currently is right-of-way dedicated along the proposed Clayborne, then that would be the location of that 187x24 inch pipe?

Bill Jeffers: Currently there is a 50 foot right-of-way platted and recorded in Bluegrass Farms and the proposal is to convert that into a 40 foot right-of-way as shown in Schultheis Subdivision plans. It would be a shorter cul-de-sac and it would only be 40 foot of right-of-way rather than 50.

Commissioner Mourdock: The pipe would be within the 40?

Bill Jeffers: It would be within the 40 foot right-of-way, correct or wait a minute. It would be within either the 40 foot right-of-way or the five foot strip adjacent to the 40 foot right-of-way that's also owned by Mr. Schultheis. I also gave you a copy that's sitting between Mrs. Jerrel and Mr. Mourdock that shows that the lake that's been spoken about by all parties concerned. The five acre lake calculation submitted by Mr. Morley's company indicated there's around 300,000 cubic feet of storage available in that lake for a 30 acre watershed above it that feeds the lake. That's the storage capacity that Mr. Morley is referring to that he feels is benefitting the properties downstream of the lake including all of Bluegrass Farms.

Commissioner Mourdock: So that's not the total capacity, that's just freeboard?

Bill Jeffers: That's just the freeboard. That's five acres of freeboard, I believe a foot and four inches deep.

President Jerrel: Are there any further questions?

Commissioner Mourdock: Mr. Wasson has got his hand up.

John Wasson: May I say a little more?

President Jerrel: Sure.

John Wasson: I...this creek that...the branches that he says he's going to address with the street or the cul-de-sac here, I'm getting a little caught for words. If I were to fill, and this is just a logical extension. If I were to fill the creeks in...across my property, the one's that aren't documented on here, would that in fact...are they going to address this to such a point that I could then fill these erosion...they're saying they're going to intersect this natural right-of-way, and do I have to then live with these six foot deep cuts in my property that, I'm sorry they're not shown. Mr. Jeffers sketched them. He didn't survey them. He inspected them but they exist on my property. I would like to fill them. If he is going to take care of this water, you know, after he has constructed this pipe that you've made the approval of the plans. Is that a reasonable question?

Joe Harrison, Jr.: That's an issue that--

Bill Jeffers: Before you answer that. At the present time those are natural surface watercourses.

John Wasson: Right.

Commissioner Tuley: That's what I was going to say.

Bill Jeffers: I thought you might have caught that. Before one of the Board members were to answer that. At the present time--

Commissioner Tuley: What, we couldn't catch it either?

Bill Jeffers: --Mr. Schultheis, even if his drainage plan were approved and he never built it, then they would remain natural surface watercourses, and Mr. Wasson's filling of them would be an obstruction and we'd be right back to the first part of the meeting. However, if Mr. Schultheis constructs the plans I've seen so far, the major watercourse will be directed into the street system and will no longer have to be there and he could fill that one. There are a couple of other rivulets that come in from the pasture through Mr. Wasson's property that may or may not be able to be filled. It would take a joint effort between Mr. Schultheis and Mr. Wasson to fill those properly because they would have to grade back and forth across their common property line and so the Board may join me and encouraging them to work together on that.

Joe Harrison, Jr.: Well stated.

Leo Schultheis: May I make one little comment?

President Jerrel: Yes, sir.

Leo Schultheis: I'd like to just to say a few words on behalf of Mr. Schultheis. We delayed this for a month so that people could gather their information, Mr. Morley has done that on my behalf and has met the requirements that Mr. Jeffers has put forward. Mr. Wasson would have you believe that some way or another the six and a half acres that we own are causing all of the problems that he has. I would submit that the problem started when the house was built in the wrong place and I would stand, as I stand before you now, and tell you that in 30 years in that neighborhood the Schultheis' have done nothing to hurt the environment. We go out of our way and we spend money to protect it. As I said last week, I have a reputation in that area, I'm called a dirty name. I'm called an environmentalist, so I stand.

President Jerrel: Is there--

Commissioner Mourdock: Pursuant to the County Surveyor's Office for preliminary approval, I'll move approval of the Schultheis Subdivision. Is that with a number, Bill, or is it just Schultheis Subdivision?

Bill Jeffers: That's it.

Commissioner Mourdock: That's it? Okay.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

Bill Jeffers: I do have the original copy, I think, I have a copy that was given to me by Tony, of Mr. Wasson's letter to you. Did you all want to enter that into your record as well?

President Jerrel: It should be entered.

Bill Jeffers: I'll pass this to your secretary to be entered into that record so that it's there when Mr. Wasson returns in December with any information he may have received for being--

President Jerrel: I'd like to take just this opportunity, understanding Mr. Wasson's feelings and Mr. Schultheis', to compliment you on the thoroughness of your own evaluation. It helps us make better decisions if we see everything. This was well done.

Bill Jeffers: Thank you.

Commissioner Mourdock: It certainly did clear up a lot of the questions last time from both sides, quite honestly. So I appreciate it.

Bill Jeffers: Well, even a bad picture is worth a couple of

hundred words.

**Other drainage plans - Branson Acres**

Bill Jeffers: Under other drainage plans, the reason I had Tony add other drainage plans to your agenda is to make sure that...two of them which I thought would come to your meeting at least had a topic to come under and several people are here to speak to Branson Acres, a minor subdivision. This one is located on Earl Avenue east of Green River Road and about a block or so south of Pollack. It's a two lot minor subdivision which normally, I want everyone to understand, would never come to the Drainage Board as a minor sub. But occasionally when there is a substantial amount of public comment with regard to drainage, the Area Plan Commission asked our office to bring a minor sub to your Board, maybe once or twice a year. This is one of those that there were enough people in the neighborhood that raised drainage concerns, that the Area Plan Commission wanted us to look at it before it came to their public meeting, so that those folks would have a chance to make their comments because Area Plan Commission does not allow Drainage comments to be made in their meeting.

President Jerrel: May I stop you right there to let her change the tape, so that we're sure we have everything on record?

Bill Jeffers: Sure.

**Tape change**

**Blue claims / Other business**

Bill Jeffers: These are all ditch maintenance claims that have been signed by the Surveyor, recommended by the Surveyor, and have the proper paperwork attached.

President Jerrel: Okay, very quickly while you've said that. Is there a motion regarding those claims?

Commissioner Tuley: I move approval.

Commissioner Mourdock: Second.

President Jerrel: Alright, now we'll go back to the Branson.

Commissioner Tuley: Do we have a so order on that?

President Jerrel: So ordered.

Commissioner Tuley: Thank you.

**Other drainage plans - Branson Acres continued**

Bill Jeffers: Okay again, this is a two lot minor subdivision. It's in an area that has experienced...it's very flat and has experienced some drainage problems that you'll hear about tonight. Mr. Bivins from Accu Engineering has submitted the

drainage calculations which normally we wouldn't get for a subdivision this small. The drainage calculations show that he can store the excess run-off generated by the two homes patios and driveways in a drainage basin which he gives the dimensions of on this sheet. He's using a slotted riser which is an upright pipe with slots incised into it. Here's some pictures of it. It's typical in agricultural areas and in commercial areas to use these slotted risers so that the water fills up in the small basin and seeps through those and leaves the site at a greatly reduced rate. The only problem we have with this is its preliminary plan, he shows an easement on the property that the developer owns. The developer also owns some property to the north and some property to the west. There's a mini storage to the west owned by the same developer. What I'm asking for...I'm recommending approval of this plan tonight, but I'm asking the developer to come back with an easement off-site going through any property he owns and out to Pollack Avenue, because once it does get to Pollack Avenue it can travel to the west and get into the Green River Road storm sewer system. The reason I want that off-site easement is that if someone in between this subdivision and Pollack Avenue decides to fill in that pond that exists there...I've talked to the owners of the pond, they've indicated that they have some desire to fill that pond in, we still need an easement that then would either be an open ditch or a pipe carrying this drainage out to Pollack Avenue.

President Jerrel: Am I correct with what you're speaking about, is this area between here and right in there, up to Pollack?

Bill Jeffers: Here's the pond.

President Jerrel: Right.

Bill Jeffers: He has to get through the pond up to Pollack--

President Jerrel: To Pollack and down here to Green River?

Bill Jeffers: Right.

President Jerrel: Okay. That's right.

Commissioner Tuley: Bill, you said he already owned this--

Bill Jeffers: That off-site easement would only be required through his property and through the mini storage property, to get to Pollack Avenue then you're in county right-of-way and it could be carried over to Green River in the right-of way. Like I said, there's several here that may wish to speak.

President Jerrel: Have you shared this information with them? Are they...this is the first time you all have heard this?

(Inaudible- several comment away from microphone.)

Bill Jeffers: Okay. I only spoke to one lady who...she and her husband own the pond through which the drainage is going to also pass. That's the only people I've spoke to because they were in my mind, the only people affected by the course that he is sending the water along.

President Jerrel: Okay.

Bill Jeffers: Other than that, the rest of these folks probably have not seen any plan whatsoever.

President Jerrel: Okay. Is there anything you can let them look at while we're...while they're talking?

Bill Jeffers: Just what I'm handing you, it's all that I have.

President Jerrel: Let's pass that around so they can...if they'd like to look at this, so you can show that one.

Bill Jeffers: This is what Area Plan Commission hands out called a staff field report, it shows the two lots they propose on Earl Avenue. This is Pollack. This is Green River. And here's the pond that lies in between, and I'm asking for an easement that would carry a ditch or a pipe all the way out to Pollack Avenue. Here it is on a larger scale. If there's any engineers or remonstrators, here's the calculations that their engineers submitted to show what size the pond would have to be in order to hold the excess water from the roof tops and sidewalks.

Unidentified: Will the water go into the pond?

Bill Jeffers: It'll go into the pond, that's correct.

Unidentified: All of it?

Bill Jeffers: All. See he's piping the water from the corner here right into the pond, and then there's a pipe coming out of the pond that goes--

President Jerrel: Could we get this on--

Bill Jeffers: Okay. Each one of you that wishes to speak--

President Jerrel: Yeah, we need to make sure we get on the record. If you will just come and give your name so we can have it for the record.

Vicki Culbertson: My name is Vicki Culbertson. I'm the owner of the pond that he's talking about. I have learned so much tonight. I didn't know what...if you could explain stubs and water tics and all these things to me. I don't know a thing about it. All I know to tell you is my pond just won't hold no more. He has done this...I've got some photographs here. We have allowed drainage to come into the pond because we don't want...we try to help out. This is a low lying area. The pond has about a five foot average depth into it. It has one spot where it drops down to ten feet, then comes back up to the five foot area. It was not designed to carry...it was for recreation for swimming and fishing for the kids. When...this is basically going to show you Pollack Avenue.

President Jerrel: Okay.

Vicki Culbertson: When my pond overflows it will...when my pond overflows, this is what you're going to have on Pollack Avenue

right now. This is where he built the subdivision or the mini storage, that's where that is. This is with my pond. This area is also between me and Tim. This area that you see here, believe it or not, is my pond.

Commissioner Tuley: It's overflown.

Vicki Culbertson: It's overflown. It cannot carry anymore. This is the neighbors...if he says this will only affect me, this is one of the reasons I'm here. As far as water damaging my property, when the pond was built, there was fill put in and my property is elevated substantially more than anybody else. The people who are really going to suffer from this are going to be my neighbors, because the flow does go into their properties. The Harbersons, who are here, it will go all the way up into their backyard almost to their door. There are several neighbors that it's going to affect. This is one of them. This is the ditch that runs down Pollack Avenue. This was not a torrential rain. This was a hard one. This is also that ditch. This culvert is probably about, going under here, is about an eight inch culvert. This is the ditch that goes beside my property. The pond is right here behind these trees. This was after neighbors that are here cleaned this ditch. This ditch does not stay clean. This ditch is not maintained. It's rare, in fact I've...say in the last seven years, no one's cleaned this ditch other than neighbors. That's after it was cleaned and it still filled. This is the only type that we have flown. We have others. I don't see how...the pond simply can't take anymore drainage because it won't help them out anymore. It'll only hold so much water and if he continues to put...we were in New York, and when he built the storage buildings, my husband builds shopping malls, and he spoke with him and told him that where he was building the storage buildings he was concerned it was to low and he said for your own sake, I really wouldn't do this because the water is going to run into your buildings. The water, needless to say, did get into the storage buildings. While we were away, he had someone come in, they dug drainage into the driveways, put a drain there and ran water into the pond from the storage buildings. We can't...it's not made for that. These people are really going to suffer if any more water comes into this area, it just can't handle it. I don't think Mr. Majors would want that at his back door. I can understand my neighbors. I'm here really because, it's not going to affect my personal property because my pond will help there, we're elevated. These other people are not. It will run into...it could possibly get into some of these people's homes, if it continues. I would like to see you deny this. I really would. I think it's better for the neighbors because they live here. These are their homes, they live here and I would like to see this denied if at all possible. I'd like to see that done tonight.

President Jerrel: Is there someone else that would like to speak?

Jim Pullum: My name is Jim Pullum. We are all neighbors in the community which you know by now. The reason we're so concerned, a few months ago we were involved in a building project with Mr. Tim Majors who developed Pollack Ave Mini Storage, who is also

trying to develop this property. Everything that was designated that he should do, basically, he did not do. He has not followed any procedures as far as building. He was supposed to put a drain fence around all the property with trees, all the trees are dead just about now, and they're still there, and he built the buildings without the proper permits, without notifying the proper people. That's why we're so concerned that if you go through the proper procedures and when he's all done, he says, well I made a mistake or I didn't do it right and it's let pass. We have people in our neighborhood who have problems with basements having water in them at various times and the land is very low at that end which has already been stated by the engineer. On behalf of this lady, we can't understand as neighbors, why this lady could even be forced to let him drain the water on her property and we're wanting to take whatever procedures are necessary to say that it doesn't get done.

President Jerrel: Is there anyone else that would like to speak?

Randy Harberson: Yes, I'm Randy Harberson. My property sits between Vicki's and Mrs. Miller's which my property line runs right up to the back of the pond. They said when they built the storage sheds that it made the water come up in my yard, worse than what it was. And it goes into those two more houses back there behind us and it drains out in that pond, that's going to throw more water, even more. When we had that pretty good size rain, it got all the way up to our back steps of our house. We sit approximately 85 feet away from the pond. I've got dog pens, I've got...I had to move the dogs, well, as a matter of fact, I've got rid of most of my dogs on account of the water problems back through there. That is my concern that I hope you all deny this.

President Jerrel: Thank you.

Bill Bivins: I'm Bill Bivins, the engineer for Mr. Majors. What we are proposing about to put in the detention, will not release water any faster than it's going to go as it is now. So, what we are doing here on this two lot subdivision should have no effect on their water problems out in that area. We will give an easement to the...our property through Pollack as Mr. Jeffers requested.

President Jerrel: Is there anyone else that would like to make a comment?

Vicki Culbertson: I do have one question and I don't know if anyone can answer me on this, but should we fill in our pond, which we've talked about doing, what will happen to this water, and what will happen to the people around that area, if we decide to fill in the pond? What will...what do you propose to do? What will happen with that?

President Jerrel: Let's ask Mr. Jeffers that question.

Bill Jeffers: It was my understanding that the pond belongs...the majority of the pond belongs to this lady. There is a small portion of it that belongs to the Majors and that was the point at which the pipe from this two lot subdivision will

discharge into that pond. It will discharge into the pond at a point owned by the Majors. That's why I was asking for an easement through that area so that if the other people who own other parts of the pond fill it in, there would still be an area that could either be an open channel or a pipe through which this water from the two lot subdivision, Branson Subdivision, could continue to flow through property owned by the Majors and through the mini storage area out to Pollack Avenue. It was also my understanding from conversations with the Culbertsons, is that correct? That there was an open ditch from the pond out to Pollack Avenue that passed through property owned by the Majors and they installed a pipe and covered that ditch up. It could be that this problem that they're now experiencing is that the pipe is too small. We have not studied that situation at all.

Commissioner Mourdock: Just a couple points here, Bill. I'm getting a little confused as to where everything sits. When you spoke initially, I think I heard you say that you would recommend this for preliminary approval but before final approval you would want to see this plan include an easement to allow this water to go through the pond. Is that correct?

Bill Jeffers: Through the pond and through the pipe that lies in the mini storage property.

Commissioner Mourdock: Okay.

President Jerrel: All the way out to Pollack Avenue.

Commissioner Mourdock: But the part that's on the mini storage property is, in fact, owned by the developer so he would dedicate an easement to himself in effect?

Bill Jeffers: Well, just a permanent drainage easement.

Commissioner Mourdock: Right. To go with this subdivision?

Bill Jeffers: To go, right. To serve this subdivision.

Commissioner Mourdock: Okay. The question isn't obvious then. If in fact the pond belongs to Mrs. Culbertson, solely or any part of the pond, how does that work, Joe?

Joe Harrison, Jr.: I think we need to know that issue. That's, I mean--

Bill Jeffers: In our telephone conversation, Mrs. Culbertson said a survey had been completed that indicated...the survey indicated that part of the pond belongs to the Majors. I was operating on that assumption. She may not...she also indicated she didn't agree with the survey.

Commissioner Mourdock: Okay well, let's assume that the survey...let's assume it's right down the middle of the pond. It's 50/50. At the point of law, would both sides...both owners of the pond have to give the right-of-way for the easement to meet Bill's condition?

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Joe Harrison, Jr.: I'm not so sure that would be an easement. I don't know if that would be necessary. If they both own the property, they can both discharge into the property, I mean, into the pond, if they both own the pond.

President Jerrel: But he's wanting it to remain available.

Joe Harrison, Jr.: Right.

Bill Jeffers: Always into the future, to remain available in case the pond is filled in--

Joe Harrison, Jr.: Right.

Commissioner Mourdock: Yeah.

Bill Jeffers: --so that it can be piped across there.

Commissioner Mourdock: Okay, well if you take that as an example, you would have to have both because if Mrs. Culbertson filled in her half, it means nothing, unless they have the easement for the other side.

Joe Harrison, Jr.: Oh, you're talking about filling it in now. Yeah, that's a whole other issue. Yeah, that's...someone is going...they're going to have to agree on that issue, if it's going to be filled in.

Commissioner Mourdock: Well, whether it would be or not, it would seem to me, it would require both signatures.

Joe Harrison, Jr.: Right. Well, I don't know about both signatures, but it's going...if they're going to fill it in, they're going to have to come to some agreement, somewhere along the line. I'm confused as to why a recommendation wouldn't be made to go with the second option only and not deal with the pond. Is that not even a possible scenario? Why not just the easement going down Pollack?

Bill Jeffers: Oh, around the pond?

Joe Harrison, Jr.: Yeah.

Bill Jeffers: Just pipe the whole thing all the way out to Pollack Avenue?

Joe Harrison, Jr.: Forget the pond.

Commissioner Mourdock: To do that, and I don't have enough of a map to tell, to do that, would require easements other than just Majors dedicating an easement to this new subdivision.

Bill Jeffers: If the Majors own enough property that they could pipe the discharge from these two lots all the way out through their mini storage area to Pollack Avenue that would be the best solution. It'll also be the most expensive.

President Jerrel: It also raises the issue, we don't know if that eight inch pipe, if that's what it is, an eight inch pipe

is even draining properly right now.

Bill Jeffers: No, we don't. I have no idea if the pipe in the mini storage area is sufficiently sized or properly installed.

Commissioner Mourdock: What does that say of the methodology that was used at the time the mini storage was put in? Does it say anything at all? I don't know how long ago that was put in there. I don't know if there was a drainage plan required, maybe you don't know off the top of your head, I just--

Bill Jeffers: Off the top of my head, I don't.

Commissioner Mourdock: Okay.

Bill Jeffers: It doesn't speak very well of someone, or some agency but, you know, that's the way a lot of things happen.

President Jerrel: Well, that's why we want to get enough information. We don't want to create another problem until we know what we're talking about.

Bill Jeffers: So, you may feel that the recommendation is premature until we know whether or not what is installed is sufficient to handle it, whether or not it's in an easement?

Commissioner Mourdock: Yeah, I guess--

Bill Jeffers: I was looking at it from the point of view that he was reducing or restricting the run-off from these two lots, after the house was built, he was restricting it back to a level equal to or below that which exists today--

Commissioner Mourdock: Right.

Bill Jeffers: --by using this agricultural style basin to restrict the flow, but what the remonstrators are objecting to is that it's still being discharged into the lake, where they feel like some of it just sat around in the yards and was absorbed down into the earth. Now we're piping it into the lake and they feel that may exacerbate their present water problems. I was looking at it from the point of view that he was holding, you know, holding it back and discharging it at a lower rate. They're saying any water is causing a problem for them. I can understand that point of view as well. I was making the recommendation the same way I do all the other ones, based on our ordinance and that's just the--

President Jerrel: Did you see these pictures?

Bill Jeffers: No, I haven't.

Commissioner Tuley: Can I ask for clarification on the pictures?

President Jerrel: Yes.

Commissioner Tuley: Some of them, they say October of '83, some of them, I can't read the dates. What dates are they?

Vicki Culbertson: They are that date. It's exactly the same as then. That hasn't changed.

Commissioner Tuley: Nothing? There's not many improvements at all or none of the things out there have changed anything?

Vicki Culbertson: Yes.

Bill Jeffers: What I would like to know is, was the mini storage built in '96, was it there in '96?

Paula Pullum: My name is Mrs. Pullum. They were built two years ago and the reason we are so skeptical of this is because not one of us was notified with a registered letter. All of our properties adjoin to Mr. Majors. We...none of received a letter that is required for him to build anything. We went on vacation, we came back, we had a whole field of mini storage buildings. None of us were notified. Nothing was...my husband owns his own company, nothing was even filed with the planning commissioner or anything. These things were just built. So we don't trust Mr. Majors. So what he's saying to you is...what he's saying on those papers has never gotten done in the past. They have been there two years.

President Jerrel: Okay. So we have three things we can do, right?

Commissioner Mourdock: At least, yeah.

President Jerrel: Well, three that I can think of, you can add some more. One, you can move to approve. Two, you can sit here and look at me and I'll ask you two or three times for a motion, if you don't make any, then I'm going to assume there is no motion. Three, you can delay the process until these questions that have been raised are answered.

Bill Jeffers: They could also fail for lack of a second.

President Jerrel: Yes, that's right. So there's four.

Commissioner Tuley: Another comment.

President Jerrel: Yes, sir.

Steve Hankins: My name is Steve Hankins. I've got, on the list there, I've got approximately two and a half acres there on the south side of Earl Avenue, and these neighbors, all of us, were a little concerned over this and I guess I'd like to ask the Board because I'm not sure, I've never been up here before. We want...I'm not going to try to keep somebody that owns property from doing something he has a right to do. I've got no intent...I don't think any of these people here do. I guess, first of all, I just wanted to make sure that maybe, Joe, you could address this. If in fact she owns this pond and I think we're all not sure about the legality of this pond. Can this person or any person dump in drainage into this pond without her permission? Now she has told us and I've got a letter, and we're all down here, that she has not gave any permission and it is a

low area, and we are concerned for the reasons that they've stated here. But, you know, that's what...I'd want to be clear on that. If, in fact, she owns this pond without a question, we're probably going to have to dig into that. Do they have a right to do that? Thank you.

President Jerrel: It's almost the reverse of what we did earlier in the meeting, where we have a new ordinance that deals with people putting obstructions and you think an obstruction is something raised but, this is something--

Joe Harrison, Jr.: Well, that certainly needs to be clarified, I mean, if she owns the pond solely, then this person would not have a right to discharge into that pond. That's something that needs to be uncovered.

President Jerrel: Okay, so that's still...does that create more than four?

Commissioner Mourdock: We're still at four.

President Jerrel: Okay.

Bill Bivins: Mr. Majors' property does touch the edge of this pond. But, I'll let you know right now, all the water at the present time is drained into this pond. That's where it all goes. We're not changing any flow of direction of water. It goes into this pond right now.

Joe Harrison, Jr.: Water off of that property is going into that pond right now, is what you're saying?

Bill Bivins: Correct.

Joe Harrison, Jr.: I'm sure there's water coming off maybe some other properties that were going into that pond. The question I raised earlier though, and I don't know if Mr. Jeffers has still answered it. If the pond, I'll just throw it out, if the pond was taken out of the mix and the drainage plan required some other option, which you talked about with the easements, that is an option that you didn't consider solely, that was a backup plan, I guess you considered if the pond was actually filled in?

Bill Jeffers: Well, actually the documents I received at least visually indicated and I asked the question of the engineer, when you're discharging into this pond, are you discharging into the pond at a point that Mr. Majors owns and I thought I heard yes. You know, now he's saying it touches. Okay, I was under the assumption that there was at least a small portion of the pond on the Majors' property and the discharge point of the pipe was on Mr. Majors' property into a portion of the pond that was on his property. If that's not the case then we need to back up and get an easement to route this water all the way out to Pollack Avenue and not through the pond--

President Jerrel: Okay.

Bill Jeffers: --because I cannot recommend a plan that has a flared end section from a pipe on someone else's property. I

can't recommend that--

Commissioner Tuley: You'd be going against anything else with--

Bill Jeffers: --or digging a ditch on someone else's property.

Bill Bivins: There is enough room to put the pipe in the lake. But we will divert the water to Pollack if that's...and just bypass the lake. I have no problem in doing that.

Commissioner Mourdock: That being the case, Bill, I have to say, I've got a lot of questions and as Bettye Lou said, this is a real ironic twist, seeing this pond almost coming in under the same wording as the Drainage Obstruction Act, only in reverse. I mentioned earlier that we've had the two cases in Indiana, and we may be on our way for a third.

President Jerrel: Yeah.

Commissioner Mourdock: I think clearly as a Drainage Board, even with the problems that area has, as low lying that it is, and the pictures you showed us notwithstanding, I think a drainage plan that does what you just described, Bill, and what Bill Jeffers mentioned with the pipe, if that comes through, I think we'd be hard pressed not to approve it, given the rules we work under.

Bill Jeffers: Piping it all the way to Pollack Avenue?

Commissioner Mourdock: All the way to Pollack, yeah.

President Jerrel: And to take a look at the existing pipe, whether it's--

Commissioner Tuley: Is he going to connect to the existing or is this going to be a totally separate pipe?

Bill Jeffers: Your ordinance requires the pipe to be a minimum of 12 inches in diameter.

Commissioner Tuley: Okay, so the other one won't have any bearing on this?

Commissioner Mourdock: Right.

President Jerrel: Alright, are we back to the--

Commissioner Mourdock: With that state of fact, I would ask that we defer this for 30 days or continue until the representative of the developer brings in a plan that would show that drainage pipe.

President Jerrel: I'd like somebody to find out what that pond...what part of that pond belongs to--

Joe Harrison, Jr.: Although with a proposal that's going to come before us, that's going to be out of the mix.

President Jerrel: Yeah I know, but I think somebody ought to go

down there and check that out.

Vicki Culbertson: If this...I'm asking this for my sake, too. If this...would it be to your advantage, because I do have documents that show the square footage. We do have swimming in it and, so our insurance company had to come out and go with the surveying points and they...I have documents showing the square footage and what we pay insurance on, which is...if he owned it, I wish he would reimburse me for some of that insurance I've been paying. If it is...because I would like to know even for the future how this would help?

President Jerrel: Well, the only thing I can suggest, and I don't want to put words in Mr. Jeffers mouth because he has plenty on his plate. I probably wouldn't know what I was looking at, if you showed me but he might...if he saw it, he might know what he was looking at. Would you look at it?

Bill Jeffers: Yes ma'am, I'll look at it.

President Jerrel: Okay. Alright, we've had a motion to defer this for 30 days and there's been various things that have been requested in the form of information and that you're in agreement now, you're not prepared to make a recommendation either. Is there a second?

Commissioner Tuley: Yeah, wait a minute. You're just restating his motion?

President Jerrel: Yes.

Commissioner Tuley: Okay, yes. I'll second.

President Jerrel: Okay, I'll say so ordered. Does everybody know where we are right now?

Bill Jeffers: Our room number...the Surveyor's Office is in 325 Civic Center and my phone number is 435-5117.

**Burkhardt Square - New addition**

Bill Jeffers: The only other item I have is Burkhardt Square. Burkhardt Square is a small commercial park owned by Mr. Richardson on Wedeking Avenue. We previously approved his first lot and he's submitted an as built drainage plan as I requested to show how he built the lake and routed it over to Crawford-Brandeis Ditch because now he wants us to approve his second lot so he can build Building "D" 120x100 foot. He shows a flood protection grade of 386 from the Building Commissions and then he's got a couple other buildings on here, Suite "C", Building "B-C", and Building "A". Everything in here conforms to his original drainage plan. He's taking it through the basin and out to Crawford-Brandeis Ditch. We recommend approval of this addition to Burkhardt Square Industrial Park on Wedeking Avenue.

President Jerrel: Is there a motion?

Commissioner Tuley: I'll so move.

Commissioner Mourdock: Second.

President Jerrel: I'll say so ordered.

Bill Jeffers: Just for the record while the tape was being changed. I did say that the Surveyor recommended approval of all the claims and that the necessary paper work and signatures were affixed.

President Jerrel: Yes, and we did--

Commissioner Tuley: We already acted on that.

President Jerrel: --and we moved, we seconded, and there they are.

Commissioner Mourdock: I understand, Bill, we need to give notice for a special Drainage Board meeting, is that correct? If so, I'll read this into the record.

Bill Jeffers: For what?

Joe Harrison, Jr.: It's for Burkhardt.

Commissioner Tuley: For Burkhardt Road.

Bill Jeffers: Oh right, so that you guys can appoint the Special Contract Deputy.

Joe Harrison, Jr.: We've already done that.

President Jerrel: We've done that.

Bill Jeffers: You've done that?

President Jerrel: Yeah.

Joe Harrison, Jr.: This is the hearing on that.

Bill Jeffers: Oh, the hearing...the public hearing for the public to make their comments.

Joe Harrison, Jr.: All on the reconstruction.

Commissioner Mourdock: Let me make the motion then:

"This is a notice of a special Vanderburgh County Drainage Board meeting and public hearing pursuant to the Indiana Code. Notice is hereby given that the Vanderburgh County Drainage Board will hold a special meeting at or about 7:00 p.m. on the 8th day of December 1997, in room 307 of the Civic Center Complex, Evansville, for the purpose of holding a public hearing to consider the Contract Deputy Surveyor's report regarding the proposed reconstruction of Crawford Brandeis Ditch, a regulated drain within Vanderburgh County Indiana."

President Jerrel: Is there a second?

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered. There is your copy.

Unidentified: Thank you.

President Jerrel: Okay. Is there any other business to come before the Board?

Commissioner Mourdock: I'll move for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting adjourned at 9:07 p.m.

**Vanderburgh County  
Drainage board  
November 24, 1997**

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***Those in attendance***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Bill Jeffers  
BJ. Farrell  
Bill Bivins  
Vicki Culbertson  
Dennis Engle  
Mike Feldbush  
Steve Hankins  
Randy Harberson  
Bob Hollander  
John Irwin  
Jim Morley  
Jim Pullum  
Paula Pullum  
Leo Schultheis  
John Wasson  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County  
Special Drainage Board Meeting  
December 8, 1997**

The Vanderburgh County Drainage Board met in session this 8th day of December in the Commissioners' Hearing Room of the Civic Center Complex at 7:32 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I'd like to call the Vanderburgh County Drainage Board meeting to order.

**Public hearing - Proposed reconstruction of Crawford-Brandeis Ditch**

President Jerrel: This is a special hearing for the purpose of the proposed reconstruction of Crawford-Brandeis Ditch. We have had discussion on this, and you're now getting the material.

John Stoll: Back in October United Consulting was appointed as the Special Contract Deputy for this ditch reconstruction report, and Greg Rominger from United Consulting is here this evening to discuss the report.

Greg Rominger: Thanks, John. What I've put before you is a--

President Jerrel: Would you want to give your name again for the record?

Greg Rominger: I'm sorry. My name is Greg Rominger. I represent United Consulting Engineers in our capacity as the Contract Deputy Surveyor for the reconstruction of the Crawford-Brandeis Ditch which is adjacent to Burkhardt Road. I gave you all a copy of our reconstruction report, and to make a brief summary of what it says, is that we're proposing to enclose the Crawford-Brandeis Ditch from basically Virginia Street to Morgan. That is being done or the need for that is a result of the reconstruction and widening of Burkhardt Road which is needed because of the increased traffic, because of the growth and development that area is experiencing. We are...we do have one recommendation that there be some increased requirements for detention of any development adjacent to the property...to the reconstructed ditch. The reason for that is because while the new ditch will have a greater capacity to convey water, it will have a slight reduction in its ability to store water in terms of backwater, when the water is backing up. As a result of that we are recommending that there be an increased storage or detention requirement on any adjacent developments. The land that this reconstruction is taking place, the Crawford-Brandeis Ditch, is all within the Burkhardt Road right-of-way and is owned and maintained by Vanderburgh County. We find that none of the adjacent land is adversely affected by the reconstruction of this ditch. The reconstruction of the ditch is estimated at about \$2,500,000 with an estimated maintenance cost approximately \$5,000 per year. That's it in a nutshell.

President Jerrel: Are there any questions from members of the Board at this point, or is there anyone in the audience that

would like to speak to this issue? Board members have questions concerning this? At this point, I'd like to ask for a motion regarding the reconstruction.

Commissioner Mourdock: I'll move that we act towards reconstruction as recommended by our Contract Deputy Surveyor, United Consulting.

Commissioner Tuley: Second.

President Jerrel: You've heard the motion and the second. Do we need to have...we don't? Okay, then I'll say so ordered.

Commissioner Mourdock: With that being the only issue, I will move for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting adjourned at 7:35 p.m.

***Those in attendance***

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
John Stoll  
Charlene Timmons  
Greg Rominger  
Others unidentified  
Members of the media

**Vanderburgh County  
Drainage Board**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

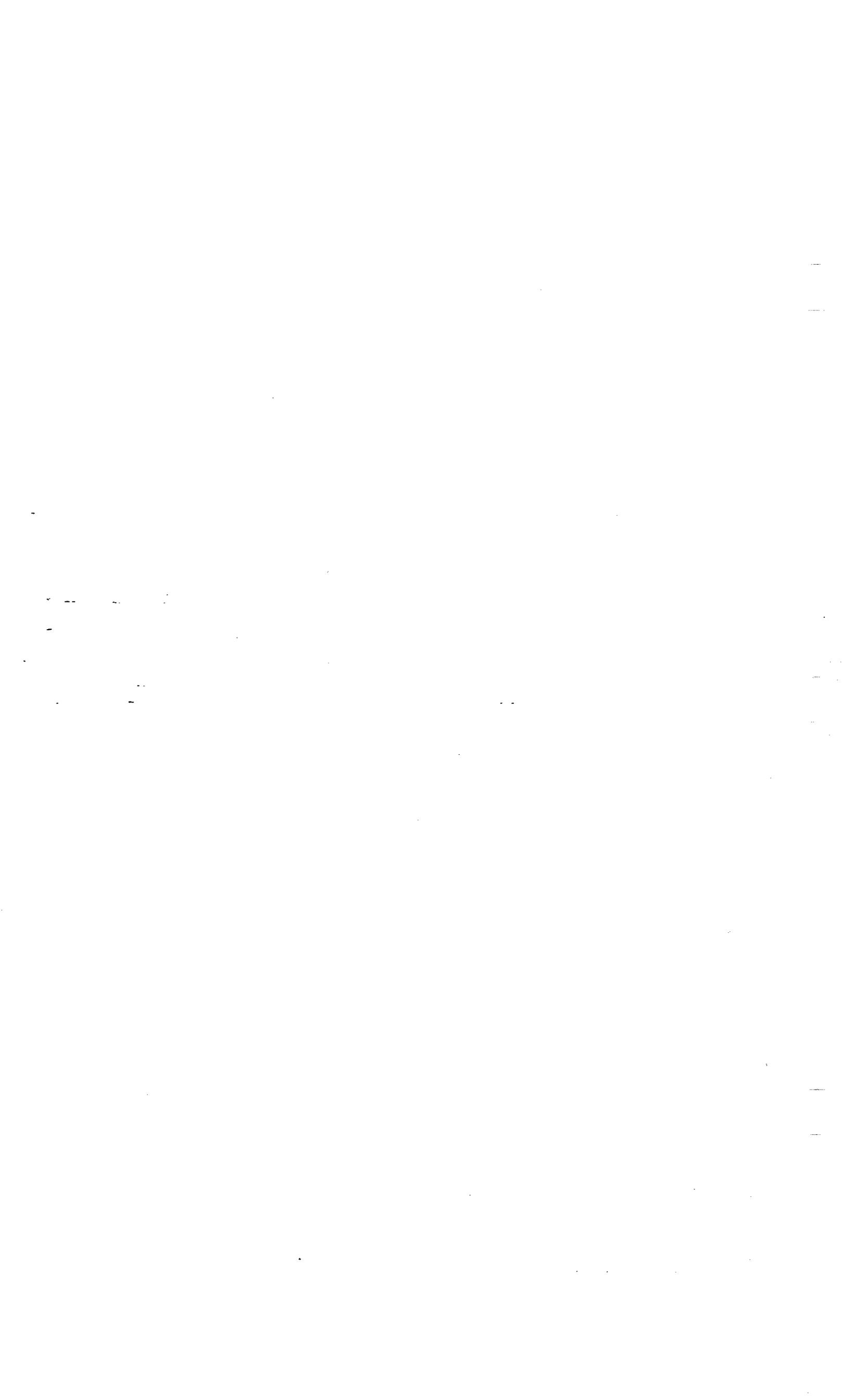
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Patrick Tuley, Member

**Vanderburgh County  
Drainage Board Meeting  
December 22, 1997**

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**Vanderburgh County  
Drainage Board Meeting  
December 22, 1997**

The Vanderburgh County Drainage Board met in session this 22nd day of December in the Commissioners' Hearing Room of the Civic Center Complex at 7:02 p.m. with President Bettye Lou Jerrel presiding.

**Call to order**

President Jerrel: I'd like to call the Vanderburgh County Drainage Board meeting to order.

**Approval of minutes**

Commissioner Mourdock: I'll move approval of the minutes of November 24, 1997, and the minutes of the Special Drainage Board meeting on December 8, 1997.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**M.I.B. Subdivision - Drainage plans**

President Jerrel: The next item on the agenda is--

Bill Jeffers: M.I.B.?

Commissioner Tuley: M.I.B., it looks like.

President Jerrel: Yes, M.I.B. Subdivision.

Bill Jeffers: You guys got such a kick out of drawings on my drawing last month, I made some more.

President Jerrel: Well, they're good though.

Commissioner Tuley: It sure makes it easier to look at. When he starts calling colors, I've got to have somebody help me with that.

Commissioner Mourdock: You're color blind?

Commissioner Tuley: Yeah.

Commissioner Mourdock: Totally?

Commissioner Tuley: Yeah, basically.

Bill Jeffers: M.I.B. Subdivision is a commercial subdivision located at the northeast corner of the intersection of Lynch Road and Oak Hill Road. On this county map that I've put in front of you, it's located on the left-hand side of the map, because there's two subdivisions in the same section of ground. I put both of them on this map. What we're looking at right now is in the far left-hand side of your map there. It shows roughly the outline of M.I.B.

Subdivision which previously received all the approvals of your Board for its drainage plan. It included...you're familiar with where it's located so now I'm going to show you the plan. This is a new plan that was submitted because the developer would like to eliminate the detention basin from the southeast corner of the subdivision. The detention basin was put there to conform to the requirements for the detention outlined in our ordinance and it was approved that way. Our ordinance also...I'm reading from the ordinance...from a page of the ordinance here, our ordinance also specifies that unless control release specifically is waived due to the direct discharge of storm water into a major waterway such as Pigeon Creek or the Ohio River, then skipping a few words, at a point of study where direct discharge has been determined to be of benefit to the tributary watersheds and tributary waterways. Why they're asking for this is that since the time we approved their plan with the basin and during the review, we had several comments from folks in the neighborhood that they didn't want another mosquito pond in this area. On your map you'll see why. Most of the remonstrators were basically...not Eastbrooke. What is the name of that street to the north?

Commissioner Mourdock: Elmridge.

Bill Jeffers: That's right. Basically, most of the remonstrators who expressed concern about additional water being generated or held in this area were from Elmridge. Behind them is this very swampy area that breeds mosquitos. We looked at this again at the request of the developer and have shown you on the map that it's about 3/4 of a mile from the point of discharge due east to Pigeon Creek. We feel at this time that to discharge the water directly into Lynch Road at the point shown on the map there would allow the release of that storm water well ahead of other flood water coming down from more remote areas upstream and Pigeon Creek, and it would prevent additional ponding already in an area already marshy and mosquito infested. This request, of course, is made and our recommendation is made subject to the approval by the owners of Lynch Road which will be the County Commissioners when the road is finished and accepted by you. I have a letter from Mr. Stoll, the County Engineer, which says that...well, I'll submit it for the record. Basically, he's awaiting a response from Mr. Lucas, of Indiana Department of Transportation, that his department also would not have any specific objections to this. So basically, what I'm saying is the County Surveyor agrees with and recommends that you waive...agrees with the request by the developer and recommends that the Board waive the requirement for detention for M.I.B. Subdivision because we have determined that direct discharge along 3/4 mile of Lynch Road side ditch which is already in place would be of benefit to the watershed and to the tributary waterways, but that is made conditioned upon approval by your...by the County Commissioners. Mr. Stoll is probably recommending to you in his letter that...we have a letter from Mr. Lucas that INDOT also doesn't object to it. I'll submit the rest of this to the secretary for recording.

President Jerrel: Okay, first of all, does anybody have any questions? Is there anyone in the audience that wishes to speak to

this? Hearing no questions, is there a motion with the...including the caveat?

Commissioner Mourdock: I'll move approval of the drainage plan with the waiver as recommended by the County Surveyor on the requirement for detention because of the ability to directly discharge into the side ditch at Lynch Road.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

**B.C.H. Commercial Subdivision - Preliminary drainage plan**

Bill Jeffers: The next subdivision is B.C.H. Commercial Subdivision. You can see that's located on Green River Road, along the east side of Green River. The big lot, Lot 6, is immediately south of Sugar Mill Creek Apartments and directly west of East Side Industrial Park which has an entrance called Cullen Avenue off of Old Boonville Highway. Then the row of lots which is not shown on that map numbered, but it's one through five, is immediately south of Bethel United Church of Christ. What I've done on that map is outlined in pink the approximate boundary of B.C.H. Commercial Subdivision. I'll put the plan in front of you. This is the proposed preliminary drainage plan which must be approved prior to B.C.H. Subdivision advancing to the Area Plan Commission on the first Wednesday of January. Like I said, that large area back there that shows the buildings is Lot 6. That is some type of facility, I believe, Assisted Care Living. The plan is to have a large dry basin behind that facility. That's outlined in blue. There's a swale running along the west line of that Lot 6 that also serves partially as a detention swale but to convey...also to convey water from hard surface such as streets and parking lots back to the dry basin. That flows north. Then you see that there's an underground pipe releasing from the basin and running parallel with that swale. It takes water back down to the south into the street pipe system which then runs west along the street back out to Green River Road. The reason this appeared...there's also a swale shown along the back side of lots one through five, which is the row of lots that runs from Green River Road, east along the cul-de-sac back to Lot 6. It's also a storage swale. This area is extremely flat and you can see from the grades from Green River Road back to the end of the cul-de-sac there's only about a foot and a half drop in that swale. That's why it seems kind of funny that they're running water one way, and then they're running it north, and then back to the south through pipes. This was all occasioned and required simply due to how flat that ground is. The plan as presented will work and the Surveyor's Office is going to recommend approval of the preliminary plan because it meets the requirements for a preliminary plan set out by the County's Drainage Ordinance. I'm not sure how much you're going to hear from the developer tonight or his representative, but they've already expressed an interest in altering this plan in its final form, so that dry basin would be a lake, a standing body of water larger than shown on this plan to accommodate more detention, and possibly if it can be worked out,

eliminate the need for the storage swale on the rear of lots one through five. I'm saying ahead of time that even though this is a workable preliminary plan, in its final form we may see a plan with a larger lake and the elimination of that storage swale along the rear of lots one through five. Some people might ask why. Number one, it's hard to maintain a drainage swale that flat without bird baths and duck ponds forming in it. It's also along the south line of the church's property. They may appreciate a different grading plan, and it also may make it more marketable as commercial lots if there were not a swale along that rear line. If you go and look at East Side Commercial...East Side Industrial Park, you'll see what I'm talking about.

Commissioner Mourdock: Bill, you are saying that at least presently submitted for preliminary approval this meets our standards? Although we realize they may want to change some of it, which they could do between now and final approval. But, again, that would have to meet our standards?

Bill Jeffers: That's exactly right. It meets the minimum standards...exceeds the minimum standards. It is a workable plan, and can be incorporated into a final plan as is. I'm just saying ahead of time that they may come up with a more desirable plan in its final form or, they may break it into Phase 1 and Phase 2. I'm just saying that on behalf of the developer and the engineer because...to let you know that we anticipate that ahead of time and we don't disagree with it. I'm sure there's people in the audience who may wish to speak. However, the County Surveyor does recommend approval of this preliminary plan for B.C.H. Commercial Subdivision.

President Jerrel: Okay. Lets begin by seeing if there is anyone in the audience that wishes to speak to this. If you'll give us your name.

Jim Hirsch: My name is Jim Hirsch. I'm a neighbor of the Harps. I'm glad to see him developing that piece of property, but I would like to have a little understanding as to which way this water is actually going be run. Can you tell me that?

President Jerrel: Maybe it would help to, if you can...would you like to look at this map? This is where the dry basin is located.

Jim Hirsch: Yeah, alright.

President Jerrel: It's flowing this way.

Jim Hirsch: That's next to Spurling Drive?

President Jerrel: Yes.

Jim Hirsch: Now, which way does that run? Doesn't that have to empty out somewhere?

President Jerrel: No, It's going to collect...it's a basin.

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Jim Hirsch: It's not--

President Jerrel: Bill, do you want to come up and--

Bill Jeffers: Jim is here. He'd be happy to show you.

President Jerrel: Okay.

Commissioner Mourdock: Wait a minute. Before we do this. Because we keep all of our notes verbatim, let's make sure everybody gets their name and address on the record. You're free to make whatever comments you want.

President Jerrel: Take the map with you. Okay, we've got Jim Hirsch. Do you want to give--

John Hirsch: John Hirsch.

President Jerrel: John Hirsch.

John Hirsch: I'm a neighbor to the--

President Jerrel: The property owner?

John Hirsch: Yeah.

President Jerrel: Do you want to give your name?

Jim Morley, Jr.: James E. Morley.

Jim Hirsch: Mr. Morley, what I'm asking is where does this drain to. It does not just stop here, does it?

Jim Morley, Jr.: The water comes through here, through this pipe out and down underneath to the existing storm sewer system along Green River Road.

Jim Hirsch: Okay, that brings a question.

President Jerrel: Okay.

Jim Hirsch: Where this water is going to we had a problem when the State of Indiana made the extension out there. They went in...all this water which started at Lynch Road, it was added all the way to Highway 62, Morgan Avenue. At that time part of it...before...part of the water went south to the Erie Canal. Part of it from about Spring Valley went between the Day School and some other property down there. Right now where this goes to, it empties out and runs down next to his property through another property. Basically, we're getting all the water that's a run-off.

President Jerrel: Could I ask a question?

Jim Hirsch: Yes.

President Jerrel: On this map, where is your property? This is

Lynch.

Jim Hirsch: This is the Timbers right here.

President Jerrel: Okay.

Jim Hirsch: Then we start in and go from here about half way over, okay, and this goes back, alright?

President Jerrel: Yes.

Jim Morley, Jr.: This is drawn wrong.

Bill Jeffers: He may be on the west side of Green River Road.

Jim Hirsch: Yeah, I'm on the west side.

Jim Morley, Jr.: This should be down here. You've got this in the wrong spot. This should be right here. Here's the church. You've just got it shown--

Bill Jeffers: This is Sugar Mill Creek.

Jim Morley, Jr.: Here's the church.

Bill Jeffers: Oh, okay.

Jim Morley, Jr.: We're just one cornfield down.

Jim Hirsch: Right.

President Jerrel: It's directly across from where his property is.

Jim Morley, Jr.: Well, no.

President Jerrel: No?

Jim Morley, Jr.: It stops here and then the pipe system...the storm system for Green River discharges out at an angle.

Jim Hirsch: It goes right there and it stops. It discharges all this water behind all these properties.

Bill Jeffers: There's a creek that runs all the way down under...through the Day School to Pigeon Creek at that point.

Jim Hirsch: It's not a creek.

Bill Jeffers: It's a slough.

Jim Hirsch: That's all it is. It's just grass.

Bill Jeffers: It's a natural watercourse.

Jim Hirsch: Well, it's a natural watercourse originally, yes. The reason I'm asking this is, I think anything on the west side which

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is Crawford-Brandeis Ditch, I think that's considered a county ditch. The part I'm talking about is not a county ditch. It never has been. It never was. Now is this...can this be included as a county maintained ditch? The reason I'm saying this is we're getting water erosion. In fact, sometimes I get non environmental friendly water because it's killing fish. It's killing crawfish in the ditch. The main thing is the erosion portion of it.

President Jerrel: Mr. Morley, could you speak to this description of the pathway of the water that Mr. Hirsch has raised?

Jim Morley, Jr.: The system that we have, I'm going to borrow your plan again.

President Jerrel: Sure.

Jim Morley, Jr.: I'll point it out to him over here. The system we have when it comes across here--

Jim Hirsch: Yeah, I know.

Jim Morley, Jr.: The pipe coming into here is a much larger pipe than the one coming across here. What we are doing is the run-off that you get now is going to be the same run-off you get afterwards. That's what the ponds and stuff are for. It's going to store the--

Jim Hirsch: Yeah, what size pipe is this?

Jim Morley, Jr.: The one from here back I believe is 36. This one is a 21 inch.

Jim Hirsch: No it's not. I'm sorry, from here over I think that's a three or four foot pipe, isn't it, John?

Jim Morley, Jr.: This is a 30 inch between here and here. That's what the county plans have shown. A 30 inch right here.

Jim Hirsch: That's on the Green River Road right-of way?

Jim Morley, Jr.: Yeah.

Jim Hirsch: That is not what it's taking off.

Jim Morley, Jr.: Oh, you're talking about the one down here?

Jim Hirsch: I'm talking about the one that goes across the properties.

Jim Morley, Jr.: I believe that one is a 48 inch pipe.

Jim Hirsch: Right. What I'm saying is, is there anything that we can do through the county to help maintain this problem? It's going to start eroding, and eroding bad because there's nothing growing on some of these ditch banks.

President Jerrel: What you're saying...he's saying...Mr. Morley is saying this is likely not to increase the erosion because you're going to store the water, and it's going to be released at a different rate. But you're saying that's not the issue. You're more interested in how do we...you want the county to take over the maintenance of the ditch?

Jim Hirsch: Of some means, yes.

President Jerrel: Well, I'm going to defer to my...I'm relatively new, so I'm going to defer to the more experienced Commissioners to describe the county's acceptance of ditches.

Commissioner Mourdock: I'm newer than Pat.

Commissioner Tuley: Well, I'm going to defer to our technical advisor with the exception or at least I believe there's a lengthy process we have to go through to make this a legal drain. That's the only way we can accept it for any kind of maintenance.

Commissioner Mourdock: I don't believe, and correct me if I'm wrong, Bill, is that...where does it pick up as a legal drain if at all? I didn't think there was a legal drain in that area.

Bill Jeffers: Mr. Hirsch is concerned about the discharge end of a pipe that was installed as a part of the Green River Road widening and improvement project back in the mid 80's. The state...the City Engineer's Office designed that. The pipe sizes were all approved by the various agencies that approved the plan including the state because there were state funds involved. It discharges into a natural watercourse that existed there at the time, and continues to exist which is a tributary of Pigeon Creek. It's all on private property, and to my knowledge, never was a county regulated drain. The biggest part of it now exists within the city limits of the city of Evansville. There are portions south of the Timbers that are within the county. The biggest portion of it exists within the city of Evansville. I'm not sure exactly where the erosion is. The erosion is on private property. Whether it's on Mr. Hirsch's property or whether it's on property within the Timbers apartment project and remains the responsibility of the private property owner to maintain that waterway. They may seek assistance from...for erosion problems they may seek assistance from the County's Soil Conservation Service through Mike Wathen. They may seek assistance from the federal program by contacting Darrell Rice in the same office. That phone number for the record is 867-0729. They may wish to file a complaint if they can identify the cause or source of the erosion or siltation with either one of those two offices. Of course through the Extension Service they could seek assistance in reestablishing a cover crop of grass or so forth and turn it back into a grassy waterway, and maintain it in that fashion. The process of going through requesting that it be converted into a county regulated drain is very lengthy. It's described in the statute books, and I'd be happy to provide anyone who requests a copy of the procedure that they would have to go through. It includes hiring a lawyer, filing a petition, a series of hearings, and then subsequently billing the property owners that

are benefitted and served by that regulated drain, and an annual fee for the maintenance of it. As farmers, you may also wish to take into consideration that you would pretty much lose the use of 75 feet on the top of either side of the bank because of the reconstruction that would be required, and the annual maintenance would run your crops down. I'm sure you're familiar with that being associated with other farmers that have regulated drains on their property. However, the information is available, and I'll be happy to provide it to anyone that asks.

John Hirsch: I'd like to make a motion that somebody go out there and walk that drain and see what we're talking about. There's--

President Jerrel: I was going to suggest if you would not mind. It's Jim and--

John Hirsch: John.

President Jerrel: --John. I wonder if you could...would you mind somebody giving me their phone number--

Jim Hirsch: I'd be glad to.

President Jerrel: I was going to call Mike Wathen who does the soil and water conservation, and ask him to go out and give us a report of the general--

Jim Hirsch: I'd be happy to. My telephone number is 476-2126.

President Jerrel: Okay.

Jim Hirsch: I'm normally there most of the time. Just give me a couple days advance.

President Jerrel: Give me the correct spelling of your last name. I think I got it right.

Jim Hirsch: H-i-r-s-h.

Unidentified: My land adjoins John's and Jim's.

President Jerrel: Sure.

Unidentified: I would endorse that.

Commissioner Mourdock: You need to--

President Jerrel: Okay, do you want to say who you are so we can--

Billy J. Munkus: Billy J. Munkus. M-u-n-k-u-s.

Commissioner Mourdock: One other point about the establishment of a legal drain, and correct me, Joe, if I'm wrong on this, or Bill. As I recall for those effected by the drainage, that basically becomes the assessed parties for the maintenance of it. I think you have to have 75% of the people who are representing that drainage

area or 75% of the drainage area signing on to that petition. I think that's right.

Bill Jeffers: There's a certain percentage that would have to sign the petition before we took action. Then there's 51% that would have to agree to it before you could declare it a regulated drain.

Commissioner Mourdock: Right.

Billy J. Munkus: Does that include the business by the Day School?

Commissioner Mourdock: Sure, but it's based on acreage.

Bill Jeffers: It includes all properties served.

Joe Harrison, Jr.: It's the property owners.

Commissioner Mourdock: It's not on the number of property owners. It's based on the total acreage. It's prorated. It wouldn't matter who owned it. Whether it was a business or a nonprofit, whatever.

Jim Hirsch: Are you talking about the acreage? Is that prorated as to what is drained into that ditch area?

Commissioner Mourdock: Right.

Commissioner Tuley: Benefit of the acres, I think is what we determine.

Commissioner Mourdock: Right, watershed acreage.

Jim Hirsch: All the watershed?

Commissioner Mourdock: Right.

Jim Hirsch: Okay.

John Hirsch: In response to Temple Avenue. It should go south. That's coming north now. Theatre Drive, Temple Avenue, all that.

Commissioner Mourdock: Just by way of historical reference and I haven't been here all that long. In three...as of tonight, three years I've been doing this. We've not yet had one petition presented to us to make...to establish a legal drain.

Jim Hirsch: I think you all understand this area is changing, and changing fast. I think what we really need to do is watch the water area.

Joe Harrison, Jr.: Is this in the county?

Bill Jeffers: They are.

Jim Hirsch: We're in the county.

Bill Jeffers: These folks are in the county. Then when you hit the

line...the south line of the Timbers, that's the city limit line. From there on up to the Day School is city.

Joe Harrison, Jr.: So what you're specifically referring to is in the county?

Billy J. Munkus: Right.

Joe Harrison, Jr.: The drain area, is it just a...what do you call it--

John Hirsch: It's a half a mile anyway.

Joe Harrison, Jr.: --just an undeveloped ditch?

Jim Hirsch: More or less, yes. It was the original drainage for that farmland out there to start off with.

Bill Jeffers: It also drains part of the Valley Downs Subdivision and all that. That's in the city.

Jim Hirsch: It drained all the farmland at that area out there since the development and the change in Green River Road, which has added to the water supply down in that area. That's the concern that I've got. My water is not...I understand the holding ponds and all this. Thank you.

Commissioner Mourdock: Okay, thank you.

Bill Jeffers: I would like to point out to these three gentlemen, plus others in the audience, the reason why our ordinance requires that a 25 year storm be held in those ponds and discharged at a lower rate, which is designated at a ten year storm rate of release. We anticipated that there were projects done by the state and the city that added water to various private drains such as this when commercial development began to occur along those four lane highways such as Morgan, Green River Road, and Lynch. The state and city did not account for any detention from those road surfaces that we were going to make the detention more stringent on the developer. So now the developer is paying the price to give up land for these ponds to hold enough water to be able to discharge at a lower rate than what's coming off the agricultural ground that you now own. So now when the Hirsch's turn around to sell a piece of property to a developer such as Mr. Harp, they will be selling a piece of property at a much greater value than it had prior to the road being widened to four lanes, and prior to all these other developments occurring. Now the property value has gone from farm ground for \$4,000 an acre to developable ground for \$150,000 an acre. The people you sell it to are going to have to pay the price of giving up the square footage for the detention basins to protect against higher velocities and volumes of water. That's the theory.

Jim Hirsch: I understand. I'm not arguing with you.

Bill Jeffers: We do appreciate your comment because it's a valid comment from both sides.

Jim Hirsch: Right, right.

Commissioner Mourdock: Just to keep things moving along, realizing that's some what of a different issue from the preliminary plan that Bill laid out before. I would move approval for the preliminary drainage plan for B.C.H. Commercial Subdivision.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered. I've made a note that we will contact Mike Wathen so we can get something moving on that.

**Corressell Court Subdivision - Preliminary drainage plan**

Bill Jeffers: Corressell Subdivision is located in a section of ground that has rapidly developed since 1990 when this aerial photograph was flown. So, I've had to draw in a lot of things. As you know Royal Avenue has been extended from Oak Grove Road all the way down to Virginia Street. I've shown that as a blue line terminating down there at American General, although it keeps on going down into Kenny Kent and then, as you know, Vogel Avenue has been extended on out to Burkhardt Road. I'm showing that as a blue line. Virginia Street has been extended out to Burkhardt. So you know where this is at. I'm showing Stockfleth Ditch as an orange line. That's a county regulated drain. The green outlined area is Royal Commercial Court which was originally developed from a parcel owned by Mr. Dick Rheinhart and I believe Mr. George Ryan. I'm not positive about that other person. It's now pretty much overseen by Mr. Dick Rheinhart. The Corressell Commercial Subdivision is immediately to the east. That's the subject of discussion. It's being laid out almost identically with regard to the drainage, as the drainage plan which was submitted and approved for the Rheinhart development. It operates the same way. Long, narrow storage swales along the rear property lines of the lots is what it is.

President Jerrel: It is long and skinny?

Bill Jeffers: Yeah, long and narrow. On the display here of the drainage plan, I've shown the long, narrow drainage swales that store the water as yellow lines. The street drains coming off the streets and empty into these swales as green lines, and then the connecting pipes that connect the entire system together as blue lines, and then show you the discharge point up there into Stockfleth Ditch as an orange dash because it goes off this site and across a piece of property that Mr. Woodward has bought and plans on developing. The plan is, like I said, almost identical to the subdivision that was approved and built immediately to the west. The calculations have been submitted by Morley and Associates, and stamped by Daryl Helfert, a professional engineer, who is sitting over here in the audience to answer any questions. The County Surveyor finds everything in order and recommends approval of this as a preliminary plan so it may advance to A.P.C. However, there are some notes on here. Number one, it will require

an off-site easement from the owner of the property between that corner and Stockfleth Ditch, which I presume is Mr. Woodward.

Commissioner Mourdock: Would they have to have that easement in place before final approval?

Bill Jeffers: Before they plat it. Before they record the plat, excuse me. Any channel or pipe requires an easement. If it's an off-site easement he would have to acquire that from the owner and that would have to be shown and recorded with the plat. They would need a relaxation of the 75 foot right of entry governed by the Board. We're recommending it to be relaxed no less than 35 feet at this time because Mr. Woodward has expressed an interest in realigning that ditch and running it right along the property line. I've told him that we wouldn't recommend that the top of the new bank be any closer than 30 feet to the property line so that there would be sufficient maintenance area between the ditch and the drainage swale shown for this project. What we're doing here is recommending approval of the preliminary plan with the provision at this time that the relaxation of the right of entry for Stockfleth Ditch where it lies on this property, not be relaxed less than 35 feet at this time and that the developer be required to obtain an off-site easement for the discharge of his water across the adjacent property into Stockfleth Ditch, and will take up the rest of it at the review of the final drainage plan.

President Jerrel: Okay, is there...are there any questions for Bill? Is there anyone in the audience that is here to speak to this?

Commissioner Mourdock: I'll move preliminary approval for the Corressell Court Subdivision as recommended by the County Surveyor.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

**Branson Acres - Final drainage plan**

President Jerrel: Is the next one Branson?

Commissioner Mourdock: Yes.

Bill Jeffers: You're familiar with Branson Subdivision which is the small two lot subdivision on Earl Avenue just about 600 feet south of Pollack Avenue, and about the same distance east of Green River Road. Last month we discussed it because there was several neighbors who were concerned about the discharge of these two new lots' water into a pond behind property on Pollack Avenue. I believe the suggestion basically amounted to finding a way to pipe that discharge through an easement owned by...on property owned by Timothy and Cheryl Majors. Mr. Bivins, who is the engineer representing Mr. and Mrs. Majors, has provided us with a legal description of a 12 foot easement from the two lot subdivision through properties owned by the Majors to the north, and to Pollack

Avenue. However, during the review of the legal description it was discovered that the person typing the legal description had made some inadvertent errors in the description which caused the legal describing this 12 foot easement not to close. That's what they say, it didn't close. However, the intent...if you read this, it does intend to take the water from the two lot sub north around the outside of the pond, and then again north through the mini storage area, and into the drainage system for Pollack Avenue which discharges to the west into Green River Road. That's what we had asked for. So, the intent is there. What I'm asking the Board at this time is to allow us a day or two for Mr. Bivins to correct the omissions and errors that were made by his typist in this legal description which is not recorded yet. It will not require a correction downstairs. Let me review it in the office and make sure that the corrections were made so that the easement, in fact, drains from Lot 1 north thence west around the pond thence north again through the mini storage area and to Pollack Avenue. If you would allow us to handle that in the office, the Surveyor will recommend that the drainage plan for Branson Minor Subdivision...Branson Acres Minor Subdivision be approved. By the way, that will be a 12 inch pipe all the way from the holding pond...the holding basin, which is just a little agricultural holding basin they're going to build on Lot 1. It'll be a 12 inch discharge pipe all the way to Pollack Avenue.

Commissioner Mourdock: Bill, I want to be sure I'm understanding it. Are you saying that you want to get with Bill Bivins and go over this and make sure that whatever the error was is corrected, and then bring it back next month for approval? Is that what you--

Bill Jeffers: No sir. We've already gone over it in the office here at about 6:00. I pointed out the mistakes that I found in there and he agreed to have his typist correct those mistakes and bring them back as soon as possible in the next few days. I'm asking you to approve it subject to the corrections being made and then we'll record this easement.

Commissioner Mourdock: Okay, but just...and this is not a motion, I just want to make sure what you're saying is that the corrections that you're referring to are simply clerical in nature. They're not subsequently changing anything? It's just a--

Bill Jeffers: There was an...it looks like there was a line of typing omitted from the description that caused it not to close.

Commissioner Mourdock: Okay.

Bill Jeffers: Someone typed in 10 feet instead of 12 feet, misspelled estate, and misspelled situated. Very minor errors. I'm asking you take a final action on this so that it's a done thing subject to the correct legal being approved in our office.

Commissioner Tuley: It does not, I mean, it completely avoids that pond or lake or whatever it was?

Bill Jeffers: It goes around the edge of the pond and just skirts

the waterline because they do own, I believe Mr. Bivins told me, an 8x80 foot strip of that pond. But he's skirting the waterline with this easement. It will be a pipe.

Commissioner Tuley: So there's no drainage into that lake is what they're saying?

Bill Jeffers: There's no discharge into the pond itself.

Commissioner Tuley: Yeah, okay.

Bill Jeffers: He's skirting that because it's the most unusable part of his property, rather than taking the easement right through the middle. However, no water will discharge into the pond from these two lots.

Commissioner Mourdock: That was my question.

President Jerrel: Okay, you've heard the recommendation with the understanding the corrections will be made. Is there anyone that wishes to speak to this?

Commissioner Mourdock: With the requirement that the clerical type errors that Mr. Jeffers mentioned, with the requirement that those be corrected within 48 hours. I'll move for final approval for the drainage plan for Branson Acres.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered.

Commissioner Mourdock: Bill, before you go, I just realized that 48 hours takes us into the Christmas holiday. So, lets just say two working days.

Bill Jeffers: That's what I was thinking.

Commissioner Mourdock: Okay, fine.

**Ashwood Subdivision - Preliminary drainage plan**

Bill Jeffers: Okay, we're back to that other drawing of the Lynch Road area near Pigeon Creek. What we have now is a subdivision called Ashwood Subdivision which came before the Drainage Board in 1993 and received approval. This preceded your 1994 drainage ordinance. I'm assuming that the approval at that time was final which would have allowed them to record the plat and build it, based upon these drainage calculations right here which are on file in our office for this subdivision. I have the minutes of the meeting which is dated March 1, 1993. I don't recall being employed at that time at the County Surveyor's Office. The recommendation was made by Mr. Dan Hartman who was then the Deputy Surveyor and a registered engineer for the state of...in the state of Indiana who said, "I went through the calculations and agree with whatever they have said thus far, and I further recommend you pass the thing."

The motion was made by the Board at that time and approved. That's on page 12 of the March 1, 1993 Drainage Board minutes. Subsequently, there's other things involved with this. There's a borrow pit that was used to build Lynch Road. I have a letter from the Department of Natural Resources. I'll enter all of this into the file although, I'd like to retrieve it and put it back into our file. It just relates to the Corps of Engineers study. I think it's a permit after the fact for that borrow pit that's involved with one thing and another. However, what I'm doing here today is asking you to reaffirm your approval. I'm sure the developer and his engineer would like for you to reaffirm final approval, but what I would like to do is for you to reaffirm approval, call it preliminary, and give us one month to review the plan to make sure all the easements so forth are in accordance with your new drainage ordinance. Because this is coming back to you, Area Plan Commission kind of looks at something that expired and has to come back, they kind of look at it as new. Although this plan will work and was approved, I would like another 30 days before I recommend approval of it as a final plan to make sure the easements and everything are in accordance with your new ordinance. I feel they probably are, but I want look at it real close.

President Jerrel: Okay. Is there someone here that would like to...do you have any questions or would you like to speak to this?

Jack Davis: I'll speak to it, yes. My name is Jack Davis. I own the property. In '93 we had it approved as a subdivision subject to the sewer being installed by the city. Well, they've taken four years to get to this point. Now they're putting the sewer in. So that's why we're coming back to get it ready to subdivide. It was all approved at that time. The two lakes have already been built. The water has been put in the back section because last spring I thought we could still get it done. Well, we've run out of time. Our 18 months, and our year extension ran out. They would not give us anymore time. We just waited until the sewer came in and now we have come back and asked for reapproval.

President Jerrel: Okay.

Sharon Schulz: My name is Sharon Schulz. I live adjacent to the property that is being developed. I live on Iroquois Avenue. Like he said, this has been laying dormant for about four years. They started moving pipe in and putting sewers in about the middle of November. I came down to talk to the people of the Area Plan Commission and they said this was dead. This had been disapproved, it was shelved. They would have to start from the very basics before anything could be done with this anymore. I went and talked to Billy Nicholson, who is a surveyor and he assured me there was no water problems and everything would be taken care of. Well, I live next to that property and twice in '96 the water was up to the edge of my yard. The neighbor who lives next to me, it was over her electrical service. The ponds they built or the lakes they built are borrow pits. There's a big, deep erosion ditch all the way through the property. What I'm saying is the Area Plan Commission told me this has been dead on the books and it has to start from the ground up before anything can be done.

President Jerrel: May I, just a minute, may I ask a question?

Sharon Schulz: Sure.

President Jerrel: What does the law say regarding something that's been approved but no work has been--

Joe Harrison, Jr.: Well, they are going back to Area Plan. That's what is going on.

President Jerrel: Okay.

Joe Harrison, Jr.: They are going to go back to Area Plan. She's somewhat correct.

President Jerrel: This is step one.

Sharon Schulz: Okay, what I was hearing was that it's all been approved and we can go ahead with this because--

President Jerrel: No.

Sharon Schulz: --the sewer system is being put in. I was under the understanding that nothing could be done until this was approved.

Commissioner Mourdock: Right. The only way this can be put on the Area Plan Commission agenda, the first step, is to have the preliminary approval for the drainage plan.

President Jerrel: Then they must approve it.

Commissioner Mourdock: Yeah, once it's on...once preliminary approval, then it goes to Area Plan Commission for their ruling on it as a subdivision, where as they said, basically it's starting over.

Sharon Schulz: Do we worry about where the water is going to go now?

President Jerrel: Well, I think you will want to see what--

Sharon Schulz: Because now, there are three ways...three places it floods that we can't get into our subdivision now.

Commissioner Mourdock: Where on Iroquois are those areas? We've got the map. You're welcome to come up here and point to the map. Here's Iroquois right here. Here's the new Lynch.

Sharon Schulz: Here's Rosewood. I'm one, two, three, four, I'm here...I'm right here. I don't know what these lines mean, if that's how high the elevation--

Commissioner Mourdock: That's the elevation.

President Jerrel: The elevation of the ground.

Sharon Schulz: I guess, where would the end of my property be?

Bill Nicholson: The red line.

Sharon Schulz: The water was up to here...up to the back of my property. I've got some little garden beds back there. It was into the water there because there's a sewer pipe that comes across and into this lake. When this sewer run-off comes up, there's a borrow pit back here. It's a one big, horseshoe lake. Well, here's where Ashwood is supposed to be. Water is going to be up here. This floods here. This floods here. This floods here. We cannot get in...we can't get into our house. We walk into our house each time there's a rain. I'm concerned about where all this is going to go from these they're planning on building up here, and down here.

Bill Nicholson: Let me say this.

President Jerrel: Do you want to give your name?

Bill Nicholson: This was submitted to DNR and DNR sent back a map which Bill had a copy of...Mr. Jeffers had a copy of it a while ago, where they established the floodway of Pigeon Creek and the area that floods that she's speaking of here when the water backs up.

President Jerrel: So your house is one, two, three, four, five?

Sharon Schulz: I'm here. I'm right here by the lake.

Bill Nicholson: This is the floodway of the creek. Pigeon Creek is over here. The water from when it rises and floods, it backs up across this lake here and, of course, this one down here, and it backs up on her property. Likewise, it backs up along the Lynch Road area and gets across the street that she's talking about.

Sharon Schulz: It also gets across--

Bill Nicholson: The access that will be made and wasn't complete when the original subdivision was built, the developer is going to build that street out, I can't think, well, it's an extension of Iroquois, and on out to Bergdolt Road. Here it is on here. The access would be made out that way. They won't have to worry about going out from that place.

President Jerrel: So Bergdolt, Kenmore, and then to you.

Bill Nicholson: Right.

Sharon Schulz: That's this subdivision.

Bill Nicholson: It'll be connected into Iroquois. We have to build, in other words, the concrete comes up to the--

Sharon Schulz: What will be built?

Jack Davis: The street, the road.

Bill Nicholson: Iroquois out to Kenmore--

Sharon Schulz: What's that got to do with my--

Bill Nicholson: You're talking about access--

Sharon Schulz: No.

Bill Nicholson: --because of high water.

Sharon Schulz: Well, sure. I'm still not going to be able to get out here or on Congress.

Bill Nicholson: Well, if it gets up--

Sharon Schulz: These people will be getting out. They can get out. I can't get out.

Bill Nicholson: If it gets high enough and gets across here, I don't know what you can do about that unless the ground is elevated.

Sharon Schulz: Well, we didn't have...our street...I have only lived out there since '94. My daughter has lived out there since about '86. One time since she's lived out there she said water has got on the street. Almost every time...every other time, and twice in the spring of '96 the water came way up. It rushes down. We've got a sewer coming through here and goes into the lake. Pigeon Creek backs up into this lake and this becomes a big horseshoe lake.

Commissioner Mourdock: That's what is showing right here.

Sharon Schulz: Water can't get out so it backs up into the street.

Bill Nicholson: Well, it backs up...because of the high water it'll back up through the sewer, up through the inlets, and get in the street. There's no way you can get around that.

Bill Jeffers: We have information on this area from '83 when it flooded.

Bill Nicholson: Right there.

Commissioner Mourdock: What elevation?

Bill Jeffers: This house flooded. It wasn't there in '83, as a matter of fact. This house was sandbagged and water was right up to the garage door and he was pumping. He had sand bags all around here, and he was pumping water back into this ditch with a trash pump.

Sharon Schulz: In '83?

Bill Jeffers: In '83. I have a bench mark on this front porch. That water flooded that street all the way back like that. That's 1983. These houses were built prior to the Drainage Board having the kind of reviews we're having today. This house here was built in violation of all building codes. It's about three feet too low. I have records showing that the Surveyor's Office turned that into the Building Commissioner and that the County Commissioners took action to try to stop that house from being built.

Sharon Schulz: I agree, I've heard that too.

Bill Jeffers: The builder pulled the red tags off the foundation and built the house two feet too low, and it flooded last year in '96. The same people that built the house, live there today. Their name is Taylor. Their name is on the building permit.

Sharon Schulz: They can't sell the house, that's true.

Bill Jeffers: Last year it didn't flood all the way back here. When it flooded back to here in '83 this intersection was all flooded as well.

Sharon Schulz: It floods now.

Bill Jeffers: This year it only flooded just like this.

Sharon Schulz: No, I'm sorry, it flooded more than that.

Bill Jeffers: I have marks out there--

Sharon Schulz: But what about this one here?

Bill Jeffers: --in both...for both years.

Sharon Schulz: Have you got any proof of--

Bill Jeffers: This flooded up in here about like this in '83.

Bill Nicholson: I've got pictures of that.

Bill Jeffers: We have marks and everything. None of these houses were inundated except, this is the only house that was inundated.

Sharon Schulz: In which year?

Bill Jeffers: In '96.

Sharon Schulz: In '96.

Bill Jeffers: There were no other houses inundated.

Sharon Schulz: You're right. It was not in any house.

Bill Jeffers: Because the rest of the houses were built--

Sharon Schulz: It was in the garages.

Bill Jeffers: The rest of the houses were built to the finished floor elevation signed by the Building Commissioner. The reason it got into some of the garages was prior to about '84, I mean prior to about '92 or '93, they allowed garages...they didn't call garages a finished floor. They only cared about the living quarters being two feet above the 100 year flood level. Then we realized a lot of people turned garages into family rooms. So now we require all floor elevations to be above...to be two feet above. Every house in this subdivision right here will be...and the new one, Ashwood--

Sharon Schulz: This is very high.

Bill Jeffers: --will be assigned finished floor elevations two feet above the 100 year flood shown on this map.

Commissioner Mourdock: Bill, let me ask you two questions. Number one, the elevations that you described, yes, the garages got wet last year--

Bill Jeffers: In '96.

Commissioner Mourdock: In '96. But the first floor...useable floor elevations did not?

Bill Jeffers: Except for this one address.

Commissioner Mourdock: Which was not built to code?

Bill Jeffers: Correct.

Commissioner Mourdock: What would have to be done to alleviate that problem? Is there a way to alleviate that problem?

Bill Jeffers: Well, we could all get down on our knees and pray that it doesn't rain like it did June 9, 1996. That exceeded a 100 year storm by the way.

Commissioner Mourdock: Okay, if that's the answer to question number one, answer number two. If this subdivision is ultimately built pursuant to what is now the preliminary plan that you've laid out before us is that going to effect it one way or the other?

Bill Jeffers: So long as...the reason I'm asking for another month to review it as a final drainage plan is to make sure there is sufficient emergency overflow spillways with easements to pass the water through the subdivision and into the floodplain. These houses in some cases may be higher than these houses. These houses were built, and the Romain Subdivision were not built to the same stringent elevation requirements as these are going to be built. These may be higher. So I want emergency overflows to pass the water through during normal design storm events.

Commissioner Mourdock: So, what you would recommend at final approval, you would only make a recommendation for acceptance at

final approval if, in fact, the situation is not made any worse than it presently is?

Bill Jeffers: Correct. Nothing will eliminate all the flooding of garages when we have events like we did June 9, 1996.

Sharon Schulz: Twice in '96, this happened.

Commissioner Mourdock: Yes, we had the wettest April in history in 1996 as well. I'm going to guess the other time was probably in April.

Sharon Schulz: Right.

Bill Jeffers: Well, it started on April 28th and it ended June 9th.

Sharon Schulz: The last rain we had a couple of weeks ago, our street flooded again. If you build all these houses and all these houses and this--

Bill Jeffers: The flooding occurs in situations like that generally because people don't rake their leaves out of the gutters.

Sharon Schulz: No, no. Me and my neighbor--

Bill Jeffers: That creek was not high enough to cause that.

Sharon Schulz: When this creek floods my son can take a canoe and come out here, and go down Green River Road, and across Green River Road. This is a lake.

Bill Jeffers: Could he have done that in the storm you just described a couple of weeks ago?

Sharon Schulz: No, sir, he couldn't.

Bill Jeffers: That flooding was caused from upstream.

Commissioner Mourdock: I understand what you're saying on that Bill. There's two types of flooding. There's flooding that occurs when the water can't get out. Then there's the kind of flooding that occurs when the water is backing up.

Bill Jeffers: The water backed up and stood in that intersection for days. Almost six days here in 1983, it stood in there.

Sharon Schulz: And 1996.

Bill Jeffers: For a while, yes.

President Jerrel: Why is it backing up?

Commissioner Tuley: There's just so much out there.

Sharon Schulz: There's a slough back here.

Bill Jeffers: Well, the river gets up to 44 or 45 feet and then it rains...in '96 it rained--

President Jerrel: No, I'm talking about the rain that we had two weeks ago.

Commissioner Mourdock: Oh, when the streets flooded?

Bill Jeffers: Just a couple weeks ago. Well, I imagine that the gutters and the inlets were full of leaves and stuff, and couldn't get out quick enough.

Sharon Schulz: No! Our street was not full of leaves. We keep them clean. We keep them clean.

Bill Jeffers: It's possible that the County Crew needs to go out there and look at some of those pipes to make sure they haven't been clogged up with silt and leaves over the last couple of years. That backwater could have left a lot of silt in there two years ago.

Sharon Schulz: Well, right now they're putting in, I guess, sewer lines.

Jack Davis: Sanitary sewers. The city is doing that.

Commissioner Mourdock: Sanitary yeah, it's got nothing to do with the storm, or with the flooding.

Jack Davis: It's got nothing to do with us. Other than I gave them a place to put them and all the easements.

Sharon Schulz: Okay, if all this run-off water is going to the creek. Right, it's going to the creek?

Jack Davis: Everything is going to Pigeon Creek.

Sharon Schulz: See, they built another subdivision, somebody did, across Oak Hill Road. Oaklynn, I think it's called. On their sewer lids it's got empties into Pigeon Creek. Well, that empties across Oak Hill Road now--

Bill Jeffers: No, Oaklynn goes the opposite way. It goes to Whirlpool.

Jack Davis: But it's still Pigeon Creek.

Bill Jeffers: It goes to Little Pigeon Creek first, then it goes into Pigeon Creek down by Stringtown Road, which is several miles downstream of this. This is the dividing line here. This water goes to Little Pigeon Creek over by Whirlpool and this goes into Pigeon Creek.

Commissioner Mourdock: Oak Hill Road is pretty well the dividing line right through there?

Bill Jeffers: Pretty much. You can see there's a little bit of water along here that crosses Oak Hill Road and goes this way. Not much.

Sharon Schulz: Assuming we have...this is where you assume the water...the highest the water can go? Is that what that blue line is?

Jack Davis: That isn't necessarily true.

Bill Jeffers: The blue line over here on this map is penciled for the engineers.

Jack Davis: That's based on the existing map according to this--

Commissioner Mourdock: Is this the 100 year--

Bill Jeffers: That's the floodway.

Sharon Schulz: So we're in a Flood Zone "C" right? Insurance will be very high on homes that will be built back there.

Bill Jeffers: No, Flood Zone "A"--

Jack Davis: Not on ours, because ours will be higher.

Bill Jeffers: Flood Zone "A" is what's subject to the insurance rate.

Commissioner Mourdock: This is a hill in here, and this is a hill right in here.

Sharon Schulz: Still, everybody has to have flood insurance out where I live.

Jack Davis: It'd be a good idea.

Bill Jeffers: Do you?

Sharon Schulz: I've paid for my house so no, I don't have to.

Bill Jeffers: Then you're not in Zone "A". You're not in the flood zone.

Sharon Schulz: Yes, I am. I don't have to have flood insurance.

Bill Jeffers: Oh, you paid cash for your house. You don't.

Sharon Schulz: My house is paid for, but my neighbors are all...across the street from me...the people who even live on this side are required to have flood insurance.

Bill Jeffers: If they're in Flood Zone "A", their lending institution will most likely--

Sharon Schulz: I called my insurance company and she said I was in

Flood Zone "C". I wanted to see how much it would cost me if I wanted to get insurance.

Bill Jeffers: If you're in Flood Zone "C" you don't need federal flood insurance. If, in fact, you're in "C".

Sharon Schulz: Are we in "C"? Do you know?

Bill Jeffers: "A" is the 100 year flood. "B" is the 500 year flood. "C" is not expected to flood unless Noah's Ark is being built.

Commissioner Mourdock: Just looking, you're roughly at elevation 383, 384 right where you are. The people down a couple...over a couple streets are below 380. That three feet means a whole lot.

Sharon Schulz: We had sand delivered to our house in sand bags last...in '96 because water was coming up. We put a stake out and what was frightening was how this lake wasn't this lake anymore. There's a big, deep ditch that runs through here. This lake became a big, horseshoe lake.

Jack Davis: That ditch is going to be taken care of. That's just a...that's where the water has been running into the lake.

Sharon Schulz: Yes, it's a bad erosion problem.

Bill Jeffers: This DNR letter says that this letter supersedes the letter from March 16, 1993. This letter declares that the 100 year flood elevation is 382.5.

Bill Nicholson: Well, the finished floor elevation would have to be two feet above that?

Bill Jeffers: These high points are a foot above the 100 year flood. So, yeah, there are some areas out here that are below. See there's a 378.9. So, yes, this is all Zone "A".

Sharon Schulz: When all this flood water starts running off the pavement and the concrete it's going to fill this lake up, and it's going to go back to our sewer--

Bill Nicholson: No. The only time that'll happen when it backs up is when the creek is up above that floodplain. All the property on this side of this line will either drain into this lake or this one.

Commissioner Mourdock: The only way water can back up through there is, going back to what Bill said a few minutes ago, and I know you disagree, but if in fact, those pipes down in there where there's some pipes and culverts if there's leaves and stuff that's built up in there and it backs up in there down inside where you can't see.

Bill Jeffers: Or collapsed, possibly.

Commissioner Mourdock: Or collapsed, yeah, that happens from time to time.

Sharon Schulz: The water rushes so hard out that pipe, it covers the pipe up.

Commissioner Mourdock: Okay, if it's rushing through it that hard, it's not plugged.

Jack Davis: Or the drainage pipe could be inadequate in size.

Bill Jeffers: There's a possibility that Romain Subdivision was built with undersized pipes and then she would be correct. A good, hard, normal rain might fill them up. That's true.

Commissioner Mourdock: Are those all county accepted roads out there?

Bill Jeffers: I'm not sure. When I first came to work in '81, Elmridge was not a county accepted road. It was built substandard.

Commissioner Mourdock: That would be something we could check on.

Bill Jeffers: The County Engineer had to work to get that one accepted.

Jack Davis: I know the city has never accepted the sewers in Romain Subdivision. How long has it been there?

Bill Jeffers: I'm not even sure. It was built way before I came to work here. Romain Subdivision was built before the County Surveyor and the Drainage Board made these reviews.

President Jerrel: I'm going to ask John Stoll to tell us about...whether these streets are accepted or not.

Bill Jeffers: Okay.

President Jerrel: That would help for us to know what we can do about some of these things based on whether we have control over them or not.

Sharon Schulz: Someone said something to me about a lift station had to be completed before this subdivision--

Jack Davis: Right, that's what we're putting in now. A lift station and a sanitary sewer.

Sharon Schulz: Okay.

Bill Jeffers: Basically, what I'm saying is that I'm going to take another month to make sure that the water passing through these lakes is discharged out of an emergency spillway and that there's emergency overflows from all the streets down in here that will make sure that water discharges positively towards Pigeon Creek, and not cause backing up into your subdivision.

Sharon Schulz: Well, when the creek came up...when the river was up

this year and the creek came up...the creek was backed up, this whole thing was water. It was coming into the lakes which was filling the lakes up.

Bill Jeffers: Right.

Jack Davis: Yeah, it exceeded the dam. That's what she's saying.

Sharon Schulz: It's over the dam. I mean, you could...it was way over the dam. Well, the water is coming back this way. It is starting to fill up this area here.

Bill Jeffers: Right.

Sharon Schulz: You've got your sewers in there. It's going to go over the sewers.

Bill Jeffers: Right.

Jack Davis: They're sealed. They're sanitary sewers, and they're sealed.

Bill Jeffers: Which sewer...are you talking about storm sewers or sanitary sewers?

Sharon Schulz: Well, you say you're putting storm sewers in.

Jack Davis: No, they're sanitary sewers.

Sharon Schulz: I mean sanitary sewers.

Bill Jeffers: Right now, right. I'm only reviewing...we're only reviewing the storm sewers. What you're saying will happen. The creek will back up and it will inundate those lakes and the storm sewer system. At that point because we know that will happen, the houses must be built two feet above the 100 year flood elevation to protect them from inundation.

Sharon Schulz: How often is this 100 foot thing--

Bill Jeffers: One hundred year flood elevation occur? It happened in '61, '64, almost in '83, and again in '96.

Sharon Schulz: When this subdivision was first thought of, Lynch Road wasn't even being built. Now we got a big, natural dam along here. It's holding the water.

Bill Jeffers: The state analyzed this bridge and said during a 100 year event the water on this side of the bridge would only be 1/10th of a foot higher which is an inch and 1/8th higher than it would be on the downstream side of the bridge. That was the State Department of Transportation who made that claim that the water over here would be 1/10th of a foot higher than the water over here. When that occurred in '96 we went out and measured it and that is exactly what it was, 1/10th of foot difference.

Sharon Schulz: What time of the year did...was this done?

Bill Jeffers: Oh, around June 9, 1996 during the flood.

Sharon Schulz: Of '96?

Bill Jeffers: Yes, ma'am.

Commissioner Mourdock: Right.

Sharon Schulz: What about April?

Bill Jeffers: It was higher on June 9th.

Commissioner Mourdock: That's when you had the combined effect because the Ohio River was so high because of all those months of rain.

Sharon Schulz: Are you talking in '97?

Commissioner Mourdock: No, '96.

Sharon Schulz: When we had the really heavy...well, everything flooded.

Bill Jeffers: When all this was backed up, you know, it was backed all up in here all through this swamp. This house was flooded.

Sharon Schulz: So what you're saying is it only came up 1/10th of a foot with this--

Bill Jeffers: No, no, no. I'm saying that the back...the headwater was 1/10th of a foot higher on this side of the bridge than it was on the discharge side.

Commissioner Mourdock: Than below the bridge.

Bill Jeffers: What this lady is saying is that it's acting as a dam. That's true, it does act as a dam.

Sharon Schulz: This becomes a whole lake. This looks like a whole lake back here.

Jack Davis: It's like that all the way to the railroad.

Bill Jeffers: Well, it also flooded all the way back up in here the same day. That water was all backed up in here like this, down to the bridge, and then all backed up in here.

Sharon Schulz: This wasn't just in one day?

Bill Jeffers: Oh, no. This was for a week or so. We had plenty of time to go out and measure it. We measured it two or three days in a row.

Commissioner Mourdock: This is the same time when the water

cleared...the levee down along I-164, that was water all the way up to that levee through that whole period.

Bill Jeffers: We have a picture in the paper that shows the Ohio River being five miles across.

Commissioner Mourdock: One pertinent point though, and I went back into my notes. On May 30 of 1995, we had a discussion. It was in a Commission meeting not a Drainage Board meeting. We talked about Elmridge and the comment was made then that the county is maintaining Elmridge, that street back through there. That being the case, we can check if that's a county right-of-way and see if any of those pipes underneath there are plugged.

Bill Jeffers: The reason we went out and checked it was that some of the people that lived along in here, the lady that lives in this house, and the lady that lives in this house, and the gentleman who lives here, asked us to check it because they thought the water was three feet higher on this side of the roadway as it was on the downstream side--

Sharon Schulz: At what time?

Bill Jeffers: During that heavy flood in '96. It was a foot or so higher if you measured it way back up here, and then down here in the creek. You can see by that time the creek had a chance to run downhill quite a ways. Right here at the bridge there was only 1/10th of a foot difference.

Sharon Schulz: Vogel Road has changed all our drainage. Now we have a big dam.

Jack Davis: There is two big pipes under here, under Lynch Road, that the state put in to carry the drainage off of this. Under that road, it's about 36 inches.

Sharon Schulz: Is that lower? Is the elevation lower there?

Bill Jeffers: Yes, it's 367 here, and it's 383 here.

Jack Davis: It goes under the high bank to the creek.

Sharon Schulz: What is it back there?

President Jerrel: It's 363.

Sharon Schulz: What is it here?

President Jerrel: It's 367 and 364.

Sharon Schulz: Okay, this is higher than this, right?

Bill Jeffers: Well, you're looking...you have to look at it relative to the proximity to the creek. That's a high point there. That's a low point.

Sharon Schulz: That's 363, this is 367.

Bill Jeffers: That's a high point. That's a high point in the contour. This is a low point. That's a little pond there. Look down here in the creek itself, it's 365 right there. Here's 364. So you go down and that 360, 355. See that's like 355 right there.

Sharon Schulz: Don't you think that if this is built and it rains people can't get on this street or this street? They're not going to be able to get back to their homes. They can't get in here.

Bill Jeffers: Oh, I'm sorry, I didn't draw in the streets. There's another street that goes in like this.

Sharon Schulz: Only these people will be able to get in. These people have no trouble. These will only be able to get out on Rosewood which they will be able to get down from Iroquois.

Bill Jeffers: Well, like I said, it only happens about every 20 years or so.

Sharon Schulz: No it doesn't! It happens...how many times have you had to walk home in the rain and have to park up on a hill? We have to park up on the hill and walk to our homes because we can't get in. The firemen come out and ask if anyone needs help getting out. This happens more than once a year. Every spring our streets flood because the lakes...this fills up like a river.

Bill Jeffers: Basically, that's what it is.

Sharon Schulz: There's a big borrow pit back here. I guess these are borrow pits.

Jack Davis: They're lakes. Retention areas.

Sharon Schulz: When the guys were digging them they told us to keep our kids away because those were borrow pits.

Jack Davis: But they developed as lakes. There's going to be water in them all of the time.

Sharon Schulz: This one has water in it all the time also.

Jack Davis: Right now I don't think Mr. Blankenberger is completely finished with that. He has an outlet put into the creek. He don't really know what he's going to do with that property yet.

Sharon Schulz: The creek backs up into that and it remains there.

Jack Davis: There's no way to keep the creek from backing up.

Bill Jeffers: That's all within the jurisdiction of the Department of Natural Resources. Here's their address and letterhead and everything, if you'd like a copy of it. Anything within that floodway should be addressed to them. They're who allows that to happen not this Board here. This Board here is reviewing the

subdivision itself.

Sharon Schulz: This still has to be brought from ground floor up, right?

Bill Nicholson: This is the first step.

Commissioner Mourdock: That's correct.

Bill Jeffers: This evening our role because it's older, the whole plan is to give, if the Board chooses, to say okay we're ready to begin this process and that's what we would do this evening. Start the process.

Commissioner Mourdock: With a preliminary...with approval of a preliminary plan, this still has to come back for--

President Jerrel: Final plan. It has to go to Area Plan. At each step it should be reviewed for these issues and whether or not it's passed will be determined as it moves along. This is just a...this is beginning everything over again.

Sharon Schulz: I guess my concern is they're going ahead and putting the sewers in, like this is gone ahead--

President Jerrel: Well, we don't have anything to with it.

Bill Jeffers: That's someone else's gamble.

Commissioner Mourdock: That's right. That's exactly what that is. That's a risk.

President Jerrel: That's a risk.

Commissioner Mourdock: Mr. Davis, the developer--

Sharon Schulz: Who is, Nicholson?

Jack Davis: The Sewer Department is putting in all the sewers.

Commissioner Mourdock: Okay, you're not doing it.

Jack Davis: The Evansville Sewer Department is. If I'm not mistaken, about three or four lift stations. This lift station is going to take care of Elmwood and a trailer park up there on Bergdolt Road. Put together that's costing them about \$100,000 each a year.

President Jerrel: Well, everyone will be notified though. Area Plan...everything that happens you'll be notified so that you--

Bill Jeffers: Area Plan has already notified them on this hearing and their--

Commissioner Tuley: Meeting in January.

Bill Jeffers: --January hearing.

President Jerrel: Okay, so they've already been--

Bill Jeffers: You should be aware that Mr. Nicholson most likely will bring back a final plan on January 27th.

Commissioner Tuley: The 26th.

Sharon Schulz: Area Plan will approve--

Bill Jeffers: They will approve the subdivision and any improvements to the drainage here. We'll be back on January 27.

Commissioner Tuley: The 26th.

Bill Jeffers: The 26th.

Commissioner Tuley: It's a Monday night.

Sharon Schulz: What's going to be January the--

Commissioner Tuley: The 7th will be the Area Plan Commission.

President Jerrel: Area Plan.

Bill Jeffers: That's when you go tell them you don't like the traffic situation.

Commissioner Mourdock: With preliminary approval for the affirmation as recommended by the County Surveyor's Office, I'll move approval for Ashwood Subdivision.

Commissioner Tuley: On preliminary, second.

President Jerrel: Alright, so ordered. Does everybody know what the next move is?

Commissioner Mourdock: Yes, it's old business.

**Old business / Blue claims**

Bill Jeffers: While you're listening to the explanation of Old Business, here's the claims. All these blue claims are for maintenance performed on county regulated drains and bear the signature of the County Surveyor along with the required paperwork and the recommendation to approve the claims and pay the vendors.

Commissioner Mourdock: I'll move approval of the blue claims as submitted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**John Irwin's pending petition**

Bill Jeffers: The last item on our agenda is Mr. Irwin's pending petition. The pending ruling on the petition for 4103 and 4105 North Green River Road. I have spoken with Pastor Dennis Engler this morning and he appeared or sounded as if he wanted to be very cooperative, and assured me that he would remove the pile of dirt that represents an obstruction in the watercourse that the County Surveyor reported does exist. To refresh your memory, at the last meeting we said if we could work this out through a site plan we may not come back for a ruling and we would suspend the petition hearing and look at refunding the \$100.00 to Mr. Irwin.

Commissioner Tuley: I remember.

Bill Jeffers: I spoke to someone else who has an interest in the land who's selling it on contract to the church and he seemed very ready to assist the church in finding some solution in engineering a ditch or a pipe that would carry the water through the property after Mr. Engler proceeds with his expansion of the building and pavement of the parking lot. I was not able to contact Mr. Irwin prior to his coming down here. He is in the audience. His main concern is the timeline. Will Mr. Engler remove obstruction prior to the spring rain? So, what the County Surveyor is recommending at this time is recommending to the Board is that we continue the hearing and suspend the ruling portion of the hearing until your January meeting and then if Mr. Engler has not removed the obstruction by that time we will encourage you to make a ruling in favor of Mr. Irwin so that we may proceed within the following 30 days to remove the obstruction ourselves.

Commissioner Mourdock: So moved.

President Jerrel: Is--

Bill Jeffers: Mr. Irwin, I hope, is satisfied with that or--

John Irwin: I'd like to say something. The only thing that I'm concerned with is the fact that this all started back a year ago when they first started building the building. For a year I've had to put up with this problem. I started back in October to due process and here it is, it's going to end up in February before anything is done. Possibly.

President Jerrel: Well, hopefully it won't be February.

John Irwin: Okay. I'll go along with the Surveyor's recommendation if I'm guaranteed in 30 days that something is going to be done.

President Jerrel: I think that's fair.

John Irwin: The last time I was here it was 30 days, fine, and still 30 days went by. This is the limit, okay?

President Jerrel: Okay.

John Irwin: That's all, thank you.

President Jerrel: Thank you. There's a motion and--

Commissioner Tuley: With the understanding of Mr. Irwin's concern, and I agree with him. I'll go ahead and make the second to the motion this time. I think 30 days from now if we don't have it resolved we take whatever action we have to and correct it.

President Jerrel: So ordered.

**Old Business**

President Maasberg: Mr. Maasberg, did you want to say something?

Eldon Maasberg: Yes, I would appreciate it. It's on something else. Is it time for it?

President Jerrel: Yes.

Commissioner Mourdock: It's old business.

Eldon Maasberg: My name is Eldon Maasberg. I'm out there along Maasberg Bridge, and I understand that you probably already let the bid and they're wanting me to sign easements. Well, I am of the opinion that the...John Stoll and Valerie Harper...or Harris, I mean, has done nothing about lining the bridge to the flow. Even though, I think it was Mourdock, told them to check it. I don't think he has done nothing. His...he just got...you guys went back a year ago and made plans according to 1920 bridge footings and you're going to set a bridge on it. I think that's what your opinion is going to do and since you want to go with them that is fine with me, but I'm not going to sign no papers as long as you don't want to try to align it up with the way it flows to keep the trash from standing under them wood pegs you're going to put in there. Dead trees as Bill said in meetings before I heard him talk. We've got a bridge down there on Mann Road, I told you back in August, that had trash which you're probably signing the papers now for cleaning which probably us, Big Creek, will have to clean them sticks off that bridge some day because you put them dead trees in there and they're misaligned. It should have been checked before hand and it wasn't, and now you're doing the same thing to Maasberg Road. The bridge took 80,000 plus pounds in the past fall of corn across it. Like the guy told me driving the truck he says, the bannisters didn't wave at him when he crossed it, but the ones on Boonville-New Harmony, before you took it out, did. It's never had the traffic, big traffic, like...I don't think she likes me!

Bill Jeffers: Good shot!

President Jerrel: She is wanting the meeting over so she is attacking!

Eldon Maasberg: Anyway, my opinion is if you want to put the bridge

in go ahead, but I am not signing no papers. I figure I'll be back here five years from now to start complaining about the silt on the north bank which always has been there because the bridge is too far north. We've dredged the creeks in the past, but here we want to put a bridge on the same footings that was set there in 1920 or there about or maybe it was in the teens. I still think the bridge will make it to 100 years if people leave it alone for the amount of traffic that crosses it. That's pretty well what I've got to say. Thank you.

President Jerrel: I've tried to write down everything you've said so I can pass this on.

Eldon Maasberg: I was hoping John would be here. I would of loved to be here for the meeting for when the Maasberg Bridge was up. John has never sent me a letter even though I told Valerie about this back in January when I got the information at first that they said it was misaligned. I come down here in August and told you then. I got nothing done just like I said about the trash underneath Mann Road. That bridge hasn't been cleaned yet and anytime you...if you align the posts up the trash is going to go through it.

Commissioner Mourdock: Bettye Lou, are you making a note about--

President Jerrel: Yes.

Commissioner Mourdock: --sending something to John because I went back in my notes and saw that the comment was made, but I didn't record anything...any comments from John.

Commissioner Jerrel: You know, I don't know. I can't remember exactly what would have happened from that point. If Lynn would have taken this information...she would have been here then, whether that would have been given to her to send to them or if it didn't get...what I'm writing down is get the trash from out from under Mann Road--

Eldon Maasberg: Yeah, sticking on the post. I talked to Valerie a couple of times about it. I mean, she knows what I am talking about.

President Jerrel: Well, she's away from the--

Eldon Maasberg: I know. She is supposed to be pregnant or maybe she has had it already.

President Jerrel: She really is pregnant--

Tape change

President Jerrel: --be heard by not insisting that somebody go out there to that Mann Road...to that bridge. That won't happen. I mean, I'm not going to say that is going to happen in the middle of the winter, but if we get decent days it will get cleaned.

Eldon Maasberg: Well, the thing of it is you get a little on it this year and next year it gets a little bigger--

President Jerrel: Yeah.

Eldon Maasberg: --and the next year it gets bigger yet.

President Jerrel: It needs to be done.

Eldon Maasberg: I don't know if Pigeon Creek had at one time where you had a great big log jam across it. That's what you're going to head for with these posts in there.

Commissioner Mourdock: Did I understand you to say, Mr. Maasberg, that what you're not going to grant us is the easement to go on your property to do any more cleaning?

Eldon Maasberg: I'm not going to sign it. I'm going to let you go ahead, I'm just not going to sign it.

Commissioner Mourdock: Okay.

Eldon Maasberg: Because I feel like no point in going to court because I am going to lose anyway or it is going to cost me as much money as I could make out of it, so it ain't worth fighting, but I ain't going to put my name on a paper that is saying that I'm going to be back here five years from now saying it is silting on the north side which it has done all these years. You can see the bridge...it's curved. You can see it perfect in Bill Jeffers' papers that he brought up here in August. I mean, all they had to do was either put the bridge posts in line with the current coming from upstream because if you put it with the downstream you're going to have the water going into it just like...are there four poles on each side or six poles? Anyway, it's just going to act...just drags in there. If you line them up the water is going to shoot through.

President Jerrel: Well, this will happen. I promise.

Eldon Maasberg: Well, I don't see how it can when it is already supposed to be bid out from what I was told.

President Jerrel: Well, I know, but I am talking about the clean up.

Eldon Maasberg: Oh, well, that's--

President Jerrel: Well, it should have been--

Eldon Maasberg: The thing of it is, what I am looking at down the road me having the ground on the upstream side, is it going to become my job or is it going to be the taxpayer's?

Bill Jeffers: We named the bridge after you.

Eldon Maasberg: Oh, no the road was after my grandpa. Let's get

that right. My grandpa, he owned the ground for a long time. My great grandpa even.

President Jerrel: Right. Well, I hope everybody on Maasberg Road has a happy holiday season and a merry Christmas.

Eldon Maasberg: My problem is I don't live on it.

President Jerrel: I know. Where do you live?

Eldon Maasberg: The other side of Lutterbach Road.

President Jerrel: Oh, okay.

Bill Jeffers: Let's switch names. We'll switch names on those two roads. Anyhow, don't you all have something you wanted to ask me to go look at? I forgot what it was.

Commissioner Mourdock: Yes, I do. We were advised at the Commission meeting that there will be a hearing between Jerry and Mary David as claimants and the Department of Natural Resources as respondent regarding some filling of Carpenter Creek over adjacent to David's property. That meeting is January 12th at 12:00 noon at the DNR Field Office at 3101 Green River Road. We would appreciate it if you would just go to that and report back to us.

Bill Jeffers: Okay, and then you might want to enter into the record the--

Commissioner Mourdock: Whatever comments--

Bill Jeffers: Yeah, the stuff from Rasche, right.

Commissioner Mourdock: Oh, that was going to be something I had in my list.

Bill Jeffers: Oh, I thought you already adjourned. I just wanted to--

President Jerrel: No.

Commissioner Mourdock: No, we haven't adjourned, but I just wanted to--

President Jerrel: Nope.

Commissioner Mourdock: I wanted to thank you for getting that quick response back on that note that I gave you about the Rasche one, Bill. I appreciated it after I got that letter and your comments.

Bill Jeffers: It had already been done.

Commissioner Mourdock: Yeah, but you didn't know it and I didn't know it at the time.

Joe Harrison, Jr.: Yeah, that's the decision on Rasche that was

rendered by the court in November by Judge Palmer of the Gibson Circuit Court. Mr. Shively has already petitioned or filed a motion to correct errors and the judge has already ruled as of December 18th overruling or denying his motion to correct errors, so the only option that they have left is to appeal to the Court of Appeals.

Commissioner Mourdock: Which we think they'll do? That was a question.

Joe Harrison, Jr.: Uh...I would say it is 50/50. A 50/50 chance.

Commissioner Mourdock: Either they will or they won't.

Joe Harrison, Jr.: We won't know that for sure for another 60 days.

President Jerrel: Are you giving this for the record?

Joe Harrison, Jr.: Yes, that is to be entered into the record, a copy of that decision. That's all I've got.

Commissioner Mourdock: Motion for adjournment.

Commissioner Tuley: Second.

B.J. Farrell: Bettye Lou, are you going to so order?

President Jerrel: So ordered.

The meeting was adjourned at 8:41 p.m.

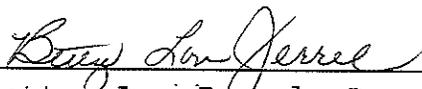
Vanderburgh County  
Drainage board  
December 22, 1997

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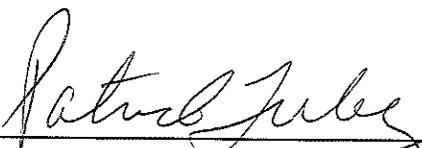
*Those in attendance*

Bettye Lou Jerrel  
Richard E. Mourdock  
Patrick Tuley  
Joe Harrison, Jr.  
Bill Jeffers  
B.J. Farrell  
Jim Hirsch  
John Hirsch  
Bill Nicholson  
Jim Morley, Jr.  
Billy J. Munkus  
Jack Davis  
Sharon Schulz  
John Irwin  
Eldon Maasberg  
Others unidentified  
Members of the media

Vanderburgh County  
Drainage Board

  
Bettye Lou Jerrel, President

  
Richard E. Mourdock, Vice President

  
Patrick Tuley, Member



STATE OF INDIANA )  
 )  
COUNTY OF GIBSON )

SS:

IN THE GIBSON CIRCUIT COURT

CATHERINE A. RASCHE )  
Petitioner, )

vs. )

VANDERBURGH COUNTY )  
DRAINAGE BOARD, and )  
BOARD OF COUNTY )  
COMMISSIONERS OF )  
VANDERBURGH COUNTY )  
INDIANA )  
Respondent. )

CAUSE NO: 26C01-9702-CP-0014

**FILED**

NOV 10 1997

*Russell Kern*  
Clerk Gibson Circuit Court

The Court heard this matter on August 6, 1997. At that time, the parties requested time in order to file briefs and proposed Findings of Fact and Conclusions of Law. The matter has been held in abeyance pending those filings. Having now read those filings and being duly advised in the premises, the Court now enters the following Findings of Fact, Conclusions of Law, and Judgment.

Findings of Fact

1. This matter arises from the filing of a Petition with the Vanderburgh County Drainage Board pursuant to I.C. 36-9-27.4-10 requesting the removal of a purported obstruction in a waterway on the property of Catherine A. Rasche ("Rasche"), who is a resident of the City of Evansville, Vanderburgh County, Indiana.
2. The property owned by Ms. Rasche is located at 20 West Mill Road in Evansville. 20 West Mill Road is a more or less rectangular plot of ground oriented in a north-south direction.
3. Ms. Rasche's immediate neighbors to the east at 18 West Mill Road are Thomas L. And Rose M. Heerdink (hereinafter referred to as "Heerdink").
4. Immediately east of the Heerdink property is the property of William and Wilma Rose (hereinafter referred to as "Rose") at 14 West Mill Road. The properties owned by Rose and Heerdink are also rectangular and lie in a more or less north-south axis. All three improved parcels are bounded on the north by West Mill Road and have a common south property line.

5. Rasche also owns another parcel of land which is unimproved, lying to the south of her 20 West Mill property, which shall be referred to as the Rasche Lot. Part of the north line of the Rasche Lot is also the south line of 20, 18, and 14 West Mill Road; however, the north line of the Rasche Lot also extends further west and east than the south line of 20, 18, and 14 West Mill Road. (See plat, R. p. 75.)
6. The Rasche Lot is a long, east-west, more or less rectangular parcel.
7. The properties at 14, 18, and 20 West Mill Road and the Rasche Lot lie some distance west of Stringtown Road.
8. The terrain in the vicinity of these properties generally slopes downhill from east to west. (see contour map, R. p. 160.)
9. For many years, storm water runoff flowed across the Rasche Lot in a ditch ("Ditch) in a generally southeast to northwest direction near the midpoint of that property.
10. Around 1995, Rasche installed a pipe culvert in the Ditch at the midpoint on the Rasche Lot so that she could get her "rider mower to the next level of" the Rasche Lot.
11. At Rose's south line (14 West Mill Road), the Ditch turned west and continued on the north side of the Rasche Lot at the common south line of 14, 18, and 20 West Mill Road, respectively.
12. Another pipe culvert is located on the south side of 20 West Mill Road (Rasche); that culvert has been in place for years.
13. At the southwest corner of Rasche's improved property at 20 West Mill Road, the flow of water turned north (parallel to the west line of 20 West Mill Road) to an exit point at Mill Road.
14. The Ditch may have been in existence from the time these properties were under common ownership in the 1920's or 1930's.
15. The Ditch apparently remained in existence since that time to the present ownership of the respective properties, until on or about August 5, 1996.
16. While drainage has been a problem in the area, generally, the Ditch had been sufficient to carry storm water past 14, 18, and 20 West Mill Road without damage to those properties.
17. Over the years, Heerdink and/or Rose cleaned out the Ditch for Rasche.
18. In May of 1996, Heerdink and Rose sent Rasche a letter, requesting her to clean out that portion of the Ditch along the north line of the Rasche Lot.
19. In July of 1996, Rasche answered by demanding that Heerdink and Rose refrain from interference with Rasche's use of her property.
20. On or about August 5, 1996, Rasche, through her contractor Floyd Staub, caused a portion

of the Ditch along the north line of the Rasche Lot to be completely filled in. Many loads of dirt were hauled in, closing what had been a natural watercourse.

21. As a result, water now flows from the Rasche Lot directly onto the rear of Rose's property (14 West Mill Road), then across the rear of Heerdink's property (18 West Mill Road) and onto the rear of Rasche's improved property (20 West Mill Road).
22. The Petition filed by Heerdink and Rose was received and briefly discussed by the Board at its August 26, 1996 meeting.
23. The record reflects that the Board was faced with essentially a new type of action with this statute, which took effect in July of 1997, and were obviously interested in performing their duties appropriately. It is in this light, after consulting with their attorney, that the Board deferred action on the Petition until the members of the Board were absolutely certain that proper notice was given to all parties.
24. The County's Chief Deputy Surveyor, William R. Jeffers ("Jeffers"), inspected the several parcels of real estate involved in this dispute on September 13, 1996.
25. At the Board's September 23, 1996 meeting, Jeffers submitted his report to the Board.
26. Jeffers' report recommended restoration of the waterway as it existed prior to its filling with dirt, replacement of the undersized and partially clogged culvert being the Rasche's 20 Mill Road address, clearing and cleaning of the part of the subject waterway downstream of the culvert. He further recommended that proper maintenance of the whole of the subject waterway would promote better drainage of the Heerdink and Rose's properties by effectively intercepting and conveying storm water runoff away from the properties of the Respondent and Petitioners. It is noteworthy that the recommendation of Mr. Jeffers finds a definite benefit to Ms. Rasche at her 20 Mill Street property from correcting the natural waterway to its condition prior to the changes she made in it.
27. The Board set a hearing on the Heerdink/Rose Petition for its October 1996 meeting.
28. At the October 28, 1996 meeting of the Board, the hearing on the Heerdink/Rose Petition was postponed until notice was sent to all parties and hearing advertised.
29. The hearing before the Board was held, pursuant to notice, on November 25, 1996.
30. The parties appeared in person and by counsel at the Board's hearing on November 25, 1996.
31. The record further shows the following with respect to the November 25, 1996 hearing:
  - a. Ms. Rasche's attorney, Mr. Shively, made his presentation at length.
  - b. Ms. Rasche testified at length.
  - c. Members of the Board asked questions.
  - d. Documents and photographs were submitted for the Board's consideration.

- e. The Surveyor's Report was placed in the record.
  - f. A witness for Ms. Rasche, Andy Easley, testified before the Board. Mr. Easley is a registered civil engineer and a former county engineer. Mr. Easley evidenced unfamiliarity with the legal definition of natural watercourse per I.C. 36-9-27.4-3.
  - g. Evidence was submitted to the Board that the Ditch was either a natural surface watercourse or a mutual drain subject to the Board's jurisdiction under the enabling statute, I.C. 36-9-27.4-1, *et. seq.*
  - h. There was also evidence that Rasche, through her contractor Staub, caused the portion of the Ditch along the north line of the Rasche Lot to be filled in on or about August 5, 1996.
  - i. There was also evidence through the report of the County Surveyor and the testimony of Jeffers who prepared the report, that the filling the Ditch by Rasche obstructed the flow of water through the drain and that damage to Heerdink's and Rose's properties, and for that matter, Rasche's property as well, occurred as a direct and proximate result of this obstruction.
  - j. The record also shows the hearing was postponed due to lack of proper service of notice and in the interest of fairness under I.C. 36-9-27.4-13.
  - k. The record also shows that the order of the Board to restore the Ditch was for the purpose of promoting better drainage of Heerdink's and Rose's properties and was also, incidently, for the purpose of improving drainage on the land of Rasche, well in accordance with I.C. 36-9-27.4-14.
32. At the conclusion of the November 25, 1996 hearing, the Board ordered Rasche to remove to drainage obstruction from the Rasche Lot.
  33. Minutes of the November 25, 1996 Board meeting were approved by the Board at its meeting on December 23, 1996.
  34. This action was commenced by Rasche against the Board and respondent Board of Commissioners of Vanderburgh County, Indiana ("Commissioners" and, collectively with Board, the "County") on December 23, 1996.
  35. Any Conclusion of Law set forth below, which may be deemed a Finding of Fact, is incorporated herein by reference.

**B. Conclusions of Law**

1. This Court adopts any of the foregoing Findings of Fact which may be deemed a Conclusion of Law.
2. Although the Commissioners are joined as a respondent in this action, they are really a nominal respondent, the real claim being against the Board.

3. In its actions relating to the Heerdink/Rose Petitioner, the Board acted under authority of the Act, which became effective July 1, 1996.
4. Although Rasche's properties, including the Rasche Lot, lie within the City, the Board has jurisdiction to enforce the Act with respect to such properties in that the Act does not exclude enforcement of its provisions in an incorporated municipality, and the Board has jurisdiction pursuant to I.C. 36-9-27-20 over ditches and drains located in a municipality unless there is relinquishment of its jurisdiction to the City, and there is no evidence of any such relinquishment. Therefore, the Ditch continues to remain within the Board's jurisdiction under the Act.
5. The Board promptly commenced investigation of the Heerdink/Rose Petition, and any postponement of the hearing was due to a notice problem or in the interest of fairness, especially to Rasche, all as allowed under I.C. 36-9-27.4-13. That being the case, there was no violation by the Board of the provisions of I.C. 36-9-27.4-12(d), requiring that a hearing be held at least 30 days but less than 90 days after the date of the filing of the Heerdink/Rose Petition.
6. Rasche had the burden of proof in challenging the constitutionality of the Act. All doubts are to be resolved against the party challenging the constitutionality and there must be a clear showing of unconstitutionality. Rasche has not overcome the presumption of constitutionality of the Act. The Act is constitutional.
7. The Record of Proceedings supports the Board's order. The Record shows that the Order of the Board to restore the Ditch was for the purpose of promoting better drainage of Heerdink's and Rose's properties and was also, incidently, for the purpose of improving drainage on the land of Rasche, well in accordance with I.C. 36-9-27.4-14.
8. The Record also shows that Rasche intentionally caused the obstruction of the Ditch by having Staub fill it in as described in I.C. 36-9-27.4-15.
9. The Board was well within its power to order removal of the obstruction at Rasche's expense in accordance with I.C. 36-9-27.4-16.
10. The complained-of conduct, that is, the intentional filling-in of the Ditch, occurred on or about August 5, 1996, after the effective date of the Act. Therefore, Rasche's contention that the Board is attempting to apply the Act retroactively or *ex-post facto* is without merit.
11. Rasche's constitutional rights were observed in proceedings of the Board under the Act, and any procedural defects during the course of the proceedings before the Board, which were not raised by Rasche, were waived by her. In that connection, the record is completely devoid of any request by Rasche to cross examine any witness or have testimony under oath; moreover the record is likewise devoid of any hint or suggestion that Rasche even may have desired to cross examine anyone or have testimony under oath.
12. The Board was well within the purview of the Act to order the relief prescribed. The Ditch appears to have been in continual existence for well over 50 years (i.e., as far back as the 1920's or 1930's) prior to Rasche's having it filled in along the north line of the Rasche Lot

on or about August 5, 1996. The Ditch constituted a pre-existing encumbrance on Rasche's title to the Rasche Lot. Rasche could not lawfully obstruct the Ditch along the north line of the Rasche Lot, thereby causing water to be dumped from that lot at a point further upstream on to the adjoining property of Heerdink and Rose. Rasche's claim of inverse condemnation is also without merit, especially in light of the fact that she intentionally caused the filling of the Ditch. Finally, the Record shows that implementation of the Board's Order would probably benefit Rasche through decreased flooding of her residential property at 20 West Mill Road.

- 13. Under I.C. 36-9-27.4-26-3, there has been no showing that (1) the drainage Board acted without authority; (2) the drainage Board erred in making the findings necessary under the statute; (3) or the drainage Board did not follow the procedures required by I.C. 36-9-27.4-1 et seq.

**C. Judgment**

Wherefore, this Court, having incorporated the foregoing Findings of Fact and Conclusions of law herein by reference, it is hereby **ORDERED, ADJUDGED, and DECREED** that the Board's Order is, in all respects, proper, and that judgment is rendered in favor of the County and against Rasche on her Amended Complaint. Court costs shall be taxed against Rasche.

This matter is remanded to the jurisdiction of the Vanderburgh County Drainage Board for its further proceedings in view of this judgment.

SO ORDERED this 10th day of November, 1997.

  
Walter H. Palmer, Judge  
Gibson Circuit Court

Distribution to:  
Leslie C. Shively  
Cedric Hustace

ITEMS THE SURVEYOR WILL BRING TO DRAINAGE BOARD MONDAY, DECEMBER 22, 1997:

DRAINAGE PLANS:

M.I.B. SUBDIVISION @ THE N.E. CORNER LYNCH/OAK HILL. PREVIOUSLY APPROVED. DEVELOPER, AL BAUER, SR. IS REQUESTING THE BOARD WAIVE REQUIREMENT FOR DETENTION AND ALLOW DIRECT RELEASE INTO LYNCH ROAD SIDE DITCH. SURVEYOR WILL RECOMMEND SAME AS ORDINANCE ALLOWS DIRECT RELEASE FOR PROJECTS IN CLOSE PROXIMITY TO LARGE STREAMS LIKE PIGEON CREEK. REQUIRES APPROVAL OF HWY. DEPT. AS LYNCH RD. DITCH WILL CARRY FLOW.

B.C.H. COMMERCIAL SUBDIVISION EAST SIDE GREEN RIVER ROAD NORTH OF THEATRE DRIVE AND IMMEDIATELY SOUTH OF SUGAR MILL CREEK APTS. DEVELOPER, EARL HARP, IS ASKING FOR PRELIMINARY APPROVAL AND SURVEYOR WILL RECOMMEND THE SAME.

CORRESSELL COURT SUB LOCATED NORTH SIDE OF VOGEL ROAD JUST EAST OF ROYAL AVE. & WEST OF STOCKFLETH DITCH. PRELIMINARY PLAN IS ALMOST IDENTICAL TO RYAN/RHEINHARDT COMMERCIAL SUB IMMEDIATELY TO WEST THEREOF. REQUIRES RELAXATION OF REGULATED DRAIN EASEMENT AND OFF-SITE EASEMENT ACROSS LAND OWNED/OPTIONED BY WOODWARD. SURVEYOR WILL GIVE POSITIVE RECOMMENDATION FOR PRELIMINARY APPROVAL.

BRANSON ACRES LOCATED ON EARL AVE. TABLED IN NOV. BOARD MTG. RETURNS WITH DRAINAGE EASEMENT DEDICATED ACROSS LAND OWNED BY DEVELOPER AND NOT THROUGH POND OWNED BY REMONSTRATOR. SURVEYOR WILL RECOMMEND APPROVAL IF PIPES ARE SIZED 12" DIA. OR LARGER FROM 2 LOT SUB ALL THE WAY TO POLLACK. (PREFER 15")

ASHWOOD SUB. IS A RESIDENTIAL SUB LOCATED NORTH OF LYNCH ROAD, EAST OF OAK HILL IN FLOOD PLAIN EAST OF ROMAINE SUB & WEST OF PIGEON CREEK. IN PAST REMONSTRATORS HAVE OBJECTED BASED ON "DRAINAGE/WETLANDS" ISSUES; HOWEVER, IDNR HAS PERMITTED EXCAVATION OF BORROW PIT BY DIRT CONTRACTOR FOR LYNCH ROAD AFTER THE FACT, DRAINAGE BOARD PREVIOUSLY APPROVED DRAINAGE PLAN, AND SURVEYOR WILL RECOMMEND REAFFIRMATION OF APPROVAL OF PLAN. IF ADDITIONAL TIME IS REQUIRED TO ANSWER ALL QUESTIONS, THE REAFFIRMATION MAY BE STATED AS "PRELIMINARY" UNTIL AFTER APC JANUARY MTG.

OLD BUSINESS WILL INCLUDE NOTIFYING BOARD THAT SITE PLAN FOR FELLOWSHIP OF HIS WORD ADDITION TO EXISTING BLDG. DID NOT INCLUDE SUFFICIENT DETAILS TO CLEAR OBSTRUCTION OF NATURAL WATERCOURSE SUBJECT OF JOHN IRWIN'S PETITION & SURVEYOR WILL RECOMMEND BOARD GIVE PASTOR DENNIS ENGLER UNTIL JAN. BOARD MTG. TO SUBMIT SUFFICIENT SITE PLAN OR PROCEED WITH OBSTRUCTION HEARING.

CLAIMS FOR DITCH MAINTENANCE.



## VANDERBURGH COUNTY ENGINEERING DEPARTMENT

201 Northwest Fourth Street · Suite 307  
Old Vanderburgh County Courthouse  
Evansville, Indiana 47708 · Tel. (812) 435-5773

To: Bill Jeffers  
From: John Stoll  
Subject: M.I.B. Subdivision Drainage Plan  
Date: December 18, 1997

Since the drainage plan for the above referenced subdivision will result in the discharge of stormwater into the ditches along Lynch Road, I contacted Dale Lucas of INDOT to find out if State approval is required for this drainage plan. Mr. Lucas said that the plan would be acceptable as long as it could be shown that the Lynch Road ditches and drainage structures have adequate capacity to accommodate the increased runoff generated by the subdivision. He also said that this drainage plan would not require written approval from INDOT.

If you have any questions concerning this, please contact me.

cc: Ron London

AFTER ADDITIONAL STUDY AND CONSIDERATION OF  
WE ARE ASKING BOARD TO WAIVE REQUIREMENT TO  
DETAIL AND ALLOW DIRECT DISCHARGE OF STORM WATER  
SUBJECT WATERSHED

201.00 STORAGE AND CONTROLLED RELEASE OF STORM WATER RUNOFF:

It shall be the policy of the Drainage Board that the Drainage Plan for certain Projects shall include provisions for the storage and controlled release of excess storm water runoff, unless such controlled release specifically is waived due to the direct discharge of storm water into a major waterway such as Pigeon Creek, or the Ohio River; or into a secondary waterway at a point of study where direct discharge has been determined to be of benefit to the tributary watersheds, and tributary waterways.

INTO LYNCH RD. R/W AT A POINT IN CLOSE PROXIMITY TO PIGEON CREEK. 1.) TO RELEASE WATER AHEAD OF OTHER FLOOD WATERS FROM MORE REMOTE AREAS 2.) TO PREVENT ADDITIONAL PONDING IN AN AREA ALREADY NATASNY AND MOSQUITO INFESTED.

PROJECTS WHICH SHALL BE SUBJECT TO THE REQUIREMENT FOR STORAGE AND CONTROLLED RELEASE OF EXCESS STORM WATER RUNOFF INCLUDE:

201.01 MAJOR SUBDIVISIONS:

All new Major Subdivisions as defined by the Vanderburgh County Subdivision Control Ordinance which major subdivisions are shown to discharge an amount of storm water in addition to that which is discharged prior to new development.

201.02 MINOR SUBDIVISIONS; C-0 THROUGH M-3:

All new Minor Subdivisions as defined by the Vanderburgh County Subdivision Control Ordinance, which Minor Subdivisions are zoned for commercial use, or for industrial use.

201.03 CERTAIN RESIDENTIAL PARCELS:

Any new "Parcelization" as defined by the Vanderburgh County Subdivision Control Ordinance, on which parcel residential development will disturb five (5) acres or more of land surface, and/or add a total of one (1) acre or more of impervious surfaces.

201.04 ALL COMMERCIAL AND INDUSTRIAL PARCELS:

All "Parcelizations" as defined by the Vanderburgh County Subdivision Control Ordinance, which parcels are zoned for commercial use, or are zoned for industrial use.

201.05 CERTAIN OTHER PROJECTS:

Any Project for which the Drainage Board, the Commissioners, or the Vanderburgh County Surveyor shall require or recommend storage and controlled release of storm water runoff due to the Project's location within:

- .051 The East Side Urban Drainage Watershed.
- .052 The watershed of a Regulated Drainage Area.
- .053 An Impacted Drainage Area.
- .054 The North U.S. 41 Industrial Corridor

THIS REQUEST IS SUBJECT TO APPROVAL BY OWNERS OF LYNCH ROAD.

*Peter Jeffrey*

Drainage Board Meeting  
March 1, 1993

(inaudible remarks)

Motion made by Commissioner Borries to accept the partial drainage plan on Mt. Ashley Subdivision the parts to apply only to twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), and eighteen (18). Seconded by Commissioner Hunter.

Roll call vote taken: Commissioner Hunter, yes. Commissioner Borries, yes. Commissioner Tuley, yes. So ordered.

**B. Ashwood Subdivision-Veach, Nicholson, Griggs**

Commissioner Tuley: "Is there someone here from Veach, Nicholson, and Griggs?"

Bill Nicholson: "I am representing the developer. We have essentially broken this one down into two separate drainage areas. Each area there is going to be a lake constructed both for aesthetics and also to acquire addition fill dirt to fill some of the areas in the lower part. We have filed our drainage plan with Dan and he has looked it over and I think everything is in order. We would be glad to answer any questions for you."

Commissioner Borries: "How many lots are going to be in this?"

Bill Nicholson: "Fifty-nine."

(inaudible remarks)

Gary Yelling: "I'm with Veach, Nicholson, and Griggs the engineers. Basically what we have is two lakes, the north lake and the south lake. This lake here (inaudible)"

Commissioner Borries: "This will be a lake here, who will maintain it?"

Bill Nicholson: "The owners. It is stated on the subdivision-maintained by the adjacent lot owners-by the statement on the plat and also the future restrictions that will be submitted along with it."

Commissioner Borries: "How big are these lots here?"

Gary Yelling: "Twelve thousand (12,000) square feet. The corner lots are fifteen thousand (15,000). Eighty foot frontage by one hundred and fifty (80 x 150)."

Mr. Hartman: "Now where does this eventually drain into here?"

(pause due to changing tape)

Gary Yelling: "On Lynch Road there is a structure there, I think it was a forty-eight inch (48") pipe. That they have planned we are going to lease and go through that pipe and it goes down eventually into Pigeon Creek."

Commissioner Hunter: "What happens when Pigeon Creek is at flood stage?"

Bill Nicholson: "It is going to inundate through that property anyway, across the lake."

Commissioner Borries: "What part of your property here is this close to Pigeon Creek. Is that in the one hundred year floodplain?"

Bill Nicholson: "This part is. The approximate line right here will be in the one hundred year flood, yes. That is the area of the lake. The lots themselves will be built above the one hundred year floodplain. That is the purpose of digging this lake out and building this property up. This

is a pretty good size hill, you can see the contours. This is going to be cut down and tear this down and this lot filled out in here. We have an elevation that they have to be filled to and I don't see that on there right now, but..."

Commissioner Tuley: "So as you tear these down you are building this lower end up? Is that what you said?"

Bill Nicholson: "They will be built up above the floodplain, yes."

(inaudible remarks)

Commissioner Borries: "I don't know if you can figure putting a pipe in there-Lynch Road we are some years away from constructing that, I mean we are buying property there."

(inaudible remarks)

Bill Nicholson: "If you look at the contours, the contours lends itself to drain that way anyhow. It is like this lake here, this middle lake is going to drain out that way."

Commissioner Borries: "Lynch Road is going to be built up, though."

Bill Nicholson: "True, but there is going to be a pipe at a certain elevation to take care of the drainage."

Mr. Hartman: "I went through their calculations and I agree with whatever they have said here thus far. And I further recommend that you pass the thing."

(inaudible remarks)

Commissioner Borries: "I expect it will be built, but we bought too much property. We are too far down the road on it now. It is going to be higher, a lot higher, it has got to stay out of the flood."

Bill Nicholson: "That's true. But the flow line of the pipe is going to be at that elevation where the road is going to be up here, but the pipe is still going to be down at that area. If this lake were never built and this area where coming down, draining down through here as it is now, it would have to drain out through there otherwise, you couldn't build a road in there. You would pocket water up there. So the outflow pipe that we are talking about that will eventually be under Lynch Road is going to be at a proper elevation where it should be."

Mr. Hartman: "The outlets of these lakes are here and here. This is a drop inlet there, and it runs down this valley here. This little space."

Commissioner Hunter: "So, you are saying this whole thing drops from south to north? I think we are looking north here."

Bill Nicholson: "There is a swale here, a valley, that comes down toward Pigeon Creek here. This is high. This is your ridge right here and it drops off into this way. These contours are stepping down in southeasterly direction."

(inaudible remarks)

Commissioner Tuley: "Is there anyone who wishes to address the Drainage Board with reference to Ashwood Subdivision? Apparently not."

Commissioner Borries: "Do you have any modifications at this point, Dan?"

Mr. Hartman: "No modifications at all. Especially with these lakes here, the reservoir more or

less, to stabilize the waters."

Commissioner Borries: "What about the swales? Where are we on the swales here?"

(inaudible remarks)

Commissioner Borries: "Have you got anything on here in terms of..."

Bill Nicholson: "Maintenance, well there is a general statement, yes and the property owners are to maintain..."

Commissioner Borries: "And to avoid putting any kind of structures in those?"

Mr. Hartman: "That is usually understood."

Commissioner Borries: "Well it is understood but,...they are doing it."

Bob Brenner: "That is what happened on Little Pigeon."

Bill Nicholson: "Like I said, this will be on the plat itself which will be recorded, plus a statement in the restrictions as to the maintenance of the lakes, drainage swales, so forth."

Commissioner Borries: "I move that Ashwood Drainage plan be approved."

Seconded by Commissioner Hunter. So ordered.

#### C. Kirchoff Subdivision-Sam Biggerstaff

Mr. Hartman: "This is an old problem here, gentlemen. We agreed the last time to put in one pipe rather than put two of them in. The only deal was the two pipes were not showing on the plans. Now I have a plan here that shows that there is a single pipe. Right here, in yellow the big pipe right there."

Commissioner Hunter: "What is the size of that pipe?"

Mr. Hartman: "Eight foot two wide by five foot nine tall (8'2" x 5'9"). Elliptical. The same as an eighty-four inch (84") diameter round pipe."

Commissioner Hunter: "How far off is that and what is stated or originally recommended?" Is that the same thing? I think they recommended a ninety-six (96), that is the reason that I am asking."

Mr. Hartman: "About the same thing. That is the only thing different. That is the only thing that has been added to the plans-or changed to the plans."

Commissioner Tuley: "Once again, we are going to keep asking. Is there anyone here that wants to address Kirchoff Subdivision?"

Mr. Hartman: "I recommend that you pass it now that they have changed from two pipes to one pipe."

Motion made by Commissioner Borries to approve drainage plans for Kirchoff Subdivision be approved. Seconded by Commissioner Hunter. So ordered.

#### D. Timberland Subdivision-Sam Biggerstaff

Mr. Hartman: "They are showing a lot more evidence this time than they did the last time, which is what you requested."

Robert W. Brenner, Vanderburgh County Surveyor

VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: RALPH REXINL FARMS, INC.

for  annual --  additional maintenance to PONA FLAT. LAT "B" Ditch, a legal drain in Vanderburgh County, Indiana, was completed on Nov. 29, 1997, and was inspected by our staff on Dec. 1, 1997, and is  approved --  disapproved for payment per the contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner 12-22-97  
Robert W. Brenner, Vanderburgh County Surveyor Date

Additional Comments:





**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, Terry R. Johnson  
(printed name of representative)

representing **Terry R. Johnson Construction**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

None

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

X Terry R. Johnson - representing **Terry R. Johnson Construction**  
(signature in ink)

NAME OF DRAIN: EAST SIDE URBAN W. HALF/FALL ACCOUNT #: 234-015  
CONTRACTOR: **Terry R. Johnson Construction** VENDOR #: 1052

ANNUAL MAINTENANCE

COMPLETION DATE: 10/22/97

ADDITIONAL MAINTENANCE

INSPECTION DATE: 10/27/97

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date



Warrant No. \_\_\_\_\_  
Claim No. \_\_\_\_\_  
Date \_\_\_\_\_

TERRY R. JOHNSON CONST.

Vendor No. 1052

\$ 1,844.07

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name EASTSIDE URBAN N. 12

Account No. 234-015

Allowed 12-22-97 19\_\_

In the sum of \$ \_\_\_\_\_  
Beverly Ann Jensen  
Robert H. Jones  
Robert H. Jones  
Board of Commissioners

I hereby certify that the within bill is true and correct; that the supplies and materials therein itemized and for which charge is made were ordered by me and were necessary to the public business; that each and every item has been delivered to me at prices mentioned, and was in accordance with contract, except

None

12-22-97  
Robert H. Jones  
Signature of Office Holder

I have examined the within claim and hereby certify as follows:

That it is in proper form; that it is duly authenticated as required by law; that it is based upon contract / statutory authority; that it is apparently correct / incorrect.

\_\_\_\_\_  
Auditor

COST DISTRIBUTION — TO BE COMPLETED BY DEPARTMENT

INVOICE NO.	PURCHASE ORDER NO.	INVOICE DATE	ACCOUNT NO.	AMOUNT PAID
<u>97-FM-15-15-N</u>		<u>OCT 23, 1997</u>	<u>234-015</u>	<u>\$ 1,844.07</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TOTAL \$ 1,844.07

**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, ELDON MAASBERG  
(printed name of representative)

representing Eldon Maasberg, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

NONE

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Eldon Maasberg - representing Eldon Maasberg  
(signature in ink)

NAME OF DRAIN: WALLENMEYER ACCOUNT #: 234-040

CONTRACTOR: Eldon Maasberg VENDOR #: 1485

ANNUAL MAINTENANCE COMPLETION DATE: OCT. 14, 1997

ADDITIONAL MAINTENANCE INSPECTION DATE: OCT 23, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date





**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, TERRY JOHNSON  
(printed name of representative)

representing **Terry R. Johnson Construction**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Terry R. Johnson - representing **Terry R. Johnson Construction**  
(signature in ink)

NAME OF DRAIN: EAST SIDE URBAN S. HALF / FALL ACCOUNT #: 234-015  
CONTRACTOR: **Terry R. Johnson Construction** VENDOR #: 1052

ANNUAL MAINTENANCE COMPLETION DATE: Sept 29, 1997  
 ADDITIONAL MAINTENANCE INSPECTION DATE: Oct 7, 1997  
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date

A claim to be properly itemized, must show: Kind of service, where performed, dates service rendered, by whom, rate per day, number of hours, rate per hour, price per foot, per yard, per hundred, per pound, per ton, etc.

VANDERBURGH COUNTY, INDIANA

VENDOR NAME TERRY R. JOHNSON CONST. # 1052

On Account of Appropriation for EAST SIDE URBAN 5 1/2 # 234-015

Invoice No.	Itemized Claim	Amount
	1997 FALL MOW	
	1. BONNIE VIEW = 1,458 LF	
	2. " * EXT. = 623 LF	
	3. CRAWFORD BRANCHES = 11,803 LF	
	4. Kelly = 7,600 LF	
	5. HIRSCH = 3,397 LF	
	6. WABASH FRIE = 1,385 LF	
	7. NURENBERN = 8,612 LF	
	8. STOELETH = <u>6,144 LF</u>	
	TOTAL = 41,017 LF	
	41,017 LF x 0.6095 = 24,999.86	
	PREV. PMT @ 85% = 21,249.88	
97-FM-15-15	PAY 15% RETAINAGE = 3,749.98 >	\$ 3,749.98

Pursuant to the provisions and penalties of Chapter 155, Acts of 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

Date Sept. 30, 1997



Robert W. Brenner, Vanderburgh County Surveyor

VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: UNION TWP. DITCH ASSOC.

for  annual -- [ ] additional maintenance to  
KAMO Ditch, a legal drain  
in Vanderburgh County, Indiana, was completed on  
DEC 8, 1997, and was inspected by  
our staff on DEC 17, 1997, and is  
 approved -- [ ] disapproved for payment per the  
contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date

Additional Comments:



Warrant No. \_\_\_\_\_

Claim No. \_\_\_\_\_

Date \_\_\_\_\_

LYNN LEADERSHIP LITCH ASSN.

Vendor No. 1259

\$ 284.58

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name KAMP LITCH

Account No. 234-021

Allowed 12-22-97 19\_\_

In the sum of \$ \_\_\_\_\_

*[Signatures]*  
Board of Commissioners

I hereby certify that the within bill is true and correct; that the supplies and materials therein itemized and for which charge is made were ordered by me and were necessary to the public business; that each and every item has been delivered to me at prices mentioned, and was in accordance with contract, except

None

12-22-97 *[Signature]*  
Signature of Office Holder

I have examined the within claim and hereby certify as follows:

That it is in proper form; that it is duly authenticated as required by law; that it is based upon contract / statutory authority; that it is apparently correct / incorrect.

Auditor \_\_\_\_\_

COST DISTRIBUTION — TO BE COMPLETED BY DEPARTMENT

INVOICE NO.	PURCHASE ORDER NO.	INVOICE DATE	ACCOUNT NO.	AMOUNT PAID
<u>97-644-21-85</u>		<u>DEC. 9, 1997</u>	<u>234-021</u>	<u>\$ 284.58</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 284.58</u>

**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, Henry J. Bigge  
(printed name of representative)

representing **Henry Bigge Excavating**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

NONE

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Henry J. Bigge - representing **Henry Bigge Excavating**  
(signature in ink)

NAME OF DRAIN: EAGLE SLOUGH ACCOUNT #: 234-013  
CONTRACTOR: **Henry Bigge Excavating** VENDOR #: 6048

ANNUAL MAINTENANCE COMPLETION DATE: SEPT 26, 1997  
 ADDITIONAL MAINTENANCE INSPECTION DATE: OCT 1, 1997  
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date





**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, ELDON MAASBERG  
(printed name of representative)

representing **Eldon Maasberg**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

None

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Eldon Maasberg - representing **Eldon Maasberg**  
(signature in ink)

NAME OF DRAIN: MAASBERG DITCH ACCOUNT #: 234-027  
CONTRACTOR: Eldon Maasberg VENDOR #: 1485

ANNUAL MAINTENANCE COMPLETION DATE: Oct 13, 1997  
 ADDITIONAL MAINTENANCE INSPECTION DATE: Oct 27, 1997  
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date



Warrant No. \_\_\_\_\_

Claim No. \_\_\_\_\_

Date \_\_\_\_\_

Edmond MARRSBERG

Vendor No. 1485

\$ 23.16

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name MARRSBERG DITCH

Account No. 234-027

Allowed 12-22-97 19\_\_

In the sum of \$ \_\_\_\_\_

George G. Jones  
Michael Jones  
Board of Commissioners

I hereby certify that the within bill is true and correct; that the supplies and materials therein itemized and for which charge is made were ordered by me and were necessary to the public business; that each and every item has been delivered to me at prices mentioned, and was in accordance with contract, except

None

12-22-97

Robert W. Brennan  
Signature of Office Holder

I have examined the within claim and hereby certify as follows:

That it is in proper form; that it is duly authenticated as required by law; that it is based upon contract / statutory authority; that it is apparently correct / incorrect.

Auditor \_\_\_\_\_

COST DISTRIBUTION — TO BE COMPLETED BY DEPARTMENT

INVOICE NO.	PURCHASE ORDER NO.	INVOICE DATE	ACCOUNT NO.	AMOUNT PAID
<u>97-FM-11-15</u>		<u>OCT. 14, 1997</u>	<u>234-027</u>	<u>\$ 23.16</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 23.16</u>

**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, ELDON MAASBERG  
(printed name of representative)

representing **Eldon Maasberg**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

None

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Eldon Maasberg - representing **Eldon Maasberg**  
(signature in ink)

NAME OF DRAIN: KNEER DITCH ACCOUNT #: 234-024

CONTRACTOR: **Eldon Maasberg** VENDOR #: 1485

ANNUAL MAINTENANCE

COMPLETION DATE: OCT. 14, 1997

ADDITIONAL MAINTENANCE

INSPECTION DATE: OCT. 27, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date









Warrant No. \_\_\_\_\_

Claim No. \_\_\_\_\_

Date \_\_\_\_\_

JOHN MAUER

Vendor No. 1483

\$ 83.56

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name HOELMAY DIRECT

Account No. 234-020

Allowed 12-22-97 19\_\_

In the sum of \$ \_\_\_\_\_

Burgess J. Lewis  
Richard J. Lewis  
Richard J. Lewis  
Board of Commissioners

I hereby certify that the within bill is true and correct; that the supplies and materials therein itemized and for which charge is made were ordered by me and were necessary to the public business; that each and every item has been delivered to me at prices mentioned, and was in accordance with contract, except

None

12-22-97

Signature of Office Holder

Robert W. Berman

I have examined the within claim and hereby certify as follows:

That it is in proper form; that it is duly authenticated as required by law; that it is based upon contract / statutory authority; that it is apparently correct / incorrect.

Auditor

COST DISTRIBUTION — TO BE COMPLETED BY DEPARTMENT

INVOICE NO.	PURCHASE ORDER NO.	INVOICE DATE	ACCOUNT NO.	AMOUNT PAID
<u>97-FMA-20-15</u>		<u>Oct. 16, 1997</u>	<u>234-020</u>	<u>\$ 83.56</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 83.56</u>

CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Paul R. Gill

(Signature in Ink)

representing Big Creek Drainage Assoc., and presently  
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on POND FLAT LAT. "E", a regulated  
drain in Vanderburgh County, Indiana, do certify that I, and/or the  
firm I represent, have/has paid in full all expenses incurred for  
labor, supplies, and subcontracts except for any unpaid costs as  
specified herein under:

and further, that neither I, nor the firm I represent, will hold the  
Vanderburgh County Drainage Board responsible for any costs, or any  
claims arising from such expenses, except for the fifteen (15) percent  
of the total contract price which the Board presently holds in  
retainage pending the receipt of this Certification of Payment.

NAME OF DRAIN: POND FLAT LAT. "E" # 234-034

CONTRACTOR: Big Creek Drainage Assoc. VENDOR # 0986

CONTRACT # \_\_\_\_\_ AND/OR ACCOUNT # \_\_\_\_\_

ANNUAL MAINTENANCE

COMPLETION DATE OCT 14, 1997

ADDITIONAL MAINTENANCE

INSPECTION DATE OCT 20, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Bremner  
VANDERBURGH COUNTY SURVEYOR

12-22-97  
DATE





**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, Robert L. Downin,  
(printed name of representative)

representing **Downin's Green Grow, Inc.**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

NONE

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Robert L. Downin - representing **Downin's Green Grow, Inc.**  
(signature in ink)

NAME OF DRAIN: EAGLE SLOUGH ACCOUNT #: 234-013

CONTRACTOR: **Downin's Green Grow, Inc.** VENDOR #: 7348

ANNUAL MAINTENANCE COMPLETION DATE: OCT 1, 1997

ADDITIONAL MAINTENANCE INSPECTION DATE: OCT 15, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date





**CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN  
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, Shirley Ann Rexing, President.  
(printed name of representative)

representing **Rexing Enterprises, Inc.**, and presently under contract with the Vanderburgh County Drainage Board to perform certain maintenance on the below named regulated drain in Vanderburgh County, Indiana, do certify that I, and/or the firm I represent, have/has paid in full all expenses incurred for labor, supplies, and sub-contracts except for any unpaid costs as specified herein under:

NONE

and further, that neither I, nor the firm I represent, will hold the Vanderburgh County Drainage Board responsible for any costs, or any claims arising from such expenses, except for the fifteen (15) percent of the total contract price which the Board presently holds in retainage pending the receipt of this Certification of Payment.

Rexing Enterprises, Inc. - representing **Rexing Enterprises, Inc.**  
(signature in ink)  
Shirley Ann Rexing Pres.

NAME OF DRAIN: Singer ACCOUNT #: 234-037  
CONTRACTOR: **Rexing Enterprises, Inc.** VENDOR #: 4476

ANNUAL MAINTENANCE

COMPLETION DATE: OCT 17, 1997

ADDITIONAL MAINTENANCE

INSPECTION DATE: OCT 20, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date





VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: RALPH REXING FARMS INC.

for [] annual -- [ ] additional maintenance to DONO FLAT LAT "D" Ditch, a legal drain in Vanderburgh County, Indiana, was completed on Nov. 29, 1997, and was inspected by our staff on Dec. 2, 1997, and is [] approved -- [ ] disapproved for payment per the contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner 12-22-97  
Robert W. Brenner, Vanderburgh County Surveyor Date

Additional Comments:





Robert W. Brenner, Vanderburgh County Surveyor

VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: Union Twp. Ditch Assoc.

for  annual -- [ ] additional maintenance to EDMUND Ditch, a legal drain in Vanderburgh County, Indiana, was completed on Dec 8, 1997, and was inspected by our staff on Dec 17, 1997, and is  approved -- [ ] disapproved for payment per the contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner 12-22-97  
Robert W. Brenner, Vanderburgh County Surveyor Date

Additional Comments:



Warrant No. \_\_\_\_\_

Claim No. \_\_\_\_\_

Date \_\_\_\_\_

Wm Townsend Birch Assoc

Vendor No. 1259

\$ 392.57

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name EDMOND BIRCH

Account No. #234-016

Allowed 12-22-97 19\_\_

In the sum of \$ \_\_\_\_\_

*[Handwritten signatures]*

Board of Commissioners

I hereby certify that the within bill is true and correct; that the supplies and materials therein itemized and for which charge is made were ordered by me and were necessary to the public business; that each and every item has been delivered to me at prices mentioned, and was in accordance with contract, except

None

12-22-97

Signature of Office Holder

*[Handwritten signature]*

I have examined the within claim and hereby certify as follows:

That it is in proper form; that it is duly authenticated as required by law; that it is based upon contract / statutory authority; that it is apparently correct / incorrect.

Auditor

COST DISTRIBUTION — TO BE COMPLETED BY DEPARTMENT

INVOICE NO.	PURCHASE ORDER NO.	INVOICE DATE	ACCOUNT NO.	AMOUNT PAID
<u>97-FM-16-85</u>		<u>Dec 9, 1997</u>	<u>234-016</u>	<u>\$ 392.57</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 392.57</u>

Robert W. Brenner, Vanderburgh County Surveyor

**VANDERBURGH COUNTY  
SURVEYOR'S OFFICE**  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

**SURVEYOR'S REPORT**

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: UNION TWP. DITCH ASSOC.

for  annual -- [ ] additional maintenance to HELRICH - KAPPE Ditch, a legal drain in Vanderburgh County, Indiana, was completed on DEC 9, 1997, and was inspected by our staff on DEC 12, 1998, and is  approved -- [ ] disapproved for payment per the contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner 12-22-97  
Robert W. Brenner, Vanderburgh County Surveyor Date

Additional Comments:





Robert W. Brenner, Vanderburgh County Surveyor

VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: BIG CREEK DRAINAGE

ASSOC.

for  annual --  additional maintenance to POND FLAT MAIN Ditch, a legal drain in Vanderburgh County, Indiana, was completed on DEC. 2, 1997, and was inspected by our staff on DEC 5, 1997, and is  approved --  disapproved for payment per the contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner  
Robert W. Brenner, Vanderburgh County Surveyor

12-22-97  
Date

Additional Comments:





CERTIFICATION OF PAYMENT  
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Henry J. Beggs  
(Signature in Ink)

representing \_\_\_\_\_, and presently  
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on FALLS SLOUGH, a regulated  
drain in Vanderburgh County, Indiana, do certify that I, and/or the  
firm I represent, have/has paid in full all expenses incurred for  
labor, supplies, and subcontracts except for any unpaid costs as  
specified herein under:

NONE

and further, that neither I, nor the firm I represent, will hold the  
Vanderburgh County Drainage Board responsible for any costs, or any  
claims arising from such expenses, except for the fifteen (15) percent  
of the total contract price which the Board presently holds in  
retainage pending the receipt of this Certification of Payment.

NAME OF DRAIN: FALLS SLOUGH # 234-013

CONTRACTOR: HENRY BIGLE EXC. VENDOR # 6048

CONTRACT # \_\_\_\_\_ AND/OR ACCOUNT # 234-013

[  ] ANNUAL MAINTENANCE                      COMPLETION DATE SEPT. 26, 1997  
[     ] ADDITIONAL MAINTENANCE                      INSPECTION DATE OCT. 1, 1997  
[     ] EMERGENCY MAINTENANCE

[  ] WORK IS APPROVED  
[     ] NOT APPROVED: COMMENTS: \_\_\_\_\_

Robert W. Brenner rd  
VANDERBURGH COUNTY SURVEYOR

12-22-97  
DATE

A claim to be properly itemized, must show: Kind of service, where performed, dates service rendered, by whom, rate per day, number of hours, rate per hour, price per foot, per yard, per hundred, per pound, per ton, etc.

VANDERBURGH COUNTY, INDIANA

VENDOR NAME HENRY BIGLER Exc. # 6048

On Account of Appropriation for FALLS SLough # 234-013

Invoice No.	Itemized Claim	Amount	
	1997 OBSTRUCTION REMOVAL		
	1- Lump sum @ \$1000.00		
	PRIV. PMT @ 85% = \$850.00		
97-OR-13-15	Pay 15% RETAINAGE = \$150.00 →	\$150	60

Pursuant to the provisions and penalties of Chapter 155, Acts of 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

Date SEPT. 30 1997



Robert W. Brenner, Vanderburgh County Surveyor

VANDERBURGH COUNTY  
SURVEYOR'S OFFICE  
Room 325 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708-1833  
(812) 435-5210

SURVEYOR'S REPORT

To: The Vanderburgh County Drainage Board

This report shall serve as notification to the Vanderburgh County Drainage Board that the work required by a certain contract between the Board and: RALPH REXING FARMS INC.

for  annual --  additional maintenance to  
POND FLAT LAT "A" Ditch, a legal drain  
in Vanderburgh County, Indiana, was completed on  
Nov. 29, 1997, and was inspected by  
our staff on DEC. 1, 1997, and is  
 approved --  disapproved for payment per the  
contracted price indicated on the claim herewith attached.

Respectfully submitted by:

Robert W. Brenner 12-22-97  
Robert W. Brenner, Vanderburgh County Surveyor Date

Additional Comments:



