

**Vanderburgh County
Drainage Board Meeting
January 26, 1998**

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The Vanderburgh County Drainage Board met in session this 26th day of January in the Commissioners' Hearing Room of the Civic Center Complex at 6:45 p.m.

Call to order

President Jerrel: I'd like to call the Drainage Board to order, and ask for approval of the minutes.

Commissioner Mourdock: I'll move approval of the minutes of the meeting of December 22nd.

Commissioner Tuley: I will second your motion.

President Jerrel: I will say so ordered.

Election of Officers

President Jerrel: If you'll move to other business which, is item "E", it's also our responsibility to elect new officers at this meeting. So, I'll entertain a motion for President of this body.

Commissioner Tuley: I will move that Commissioner Mourdock be named President of the Drainage Board for 1998.

President Jerrel: I'll second, and say so ordered.

President Mourdock: Thank you, and I'll not forget.

Commissioner Jerrel: I had this handed to me the same way.

President Mourdock: In fact, it was your very first Drainage Board meeting. So, I guess I'm a little...

Commissioner Tuley: I had the privilege, I think it was four years ago, or five years ago, it was handed to me that same way.

President Mourdock: Okay, with that bit of annual business under way we will revert back to our normal Drainage Board agenda here. I would move that the Vice President of the Drainage Board be Betty Lou Jerrel.

Commissioner Tuley: Second.

President Mourdock: I will so order. Thank you, Charlene, for keeping us businesslike. Okay, Bill Jeffers, with your report please.

Drainage Plans - C & D 3-lot major subdivision: Final approval

Bill Jeffers: The first subdivision is C & D Subdivision. It's a 3-lot subdivision located on Strueh Hendricks Road south of the Southern Indiana Higher Education Foundation property out there south of USI. It's a 3-lot subdivision. Each of the lots are two and one half acres. Lot 3 has an existing home. It was first

entered at APC as a 2-lot minor subdivision consisting of Lot 1, and Lot 2. But, due to a previous building permit issued for the house on Lot 3 a strict interpretation of the subdivision code required that it be reentered as a major sub because it consists of three lots. We still view it as a minor subdivision from a drainage point of view. It has a large drawing, that I've shaded in yellow between lots two and three. I asked the Engineer, Fred Kuester, to label that a natural surface watercourse to remain unobstructed, and he did so on the plat. There is a pond in the bottom left-hand corner of Lot 1, and I asked Mr. Kuester to label that pond, put an easement around it, and put the statement that the maintenance and liability are the responsibility of the owner. No part of the pond is a part of any drainage plan. The parent tract still surrounds that corner. So, the rest of the pond lies on the parent tract. Then I asked Mr. Kuester to put a drainage note that the individual lot owners be responsible to establish a grading plan around their homes to protect the buildings from surface water, and then another note below that regarding drainage easements. I'm asking and recommending to the Board that they wave all other requirements of the Vanderburgh County Drainage Ordinance with regard to additional review presented here by the developer, and his engineer, and to approve this as a final drainage plan.

President Mourdock: This is being presented to us for the first time, though?

Bill Jeffers: Right. It will go from here to Area Plan Commission, I believe, on the 5th of February. It's our feeling that it needs no further action.

President Mourdock: Okay, you mentioned you had spoken to Mr. Kuester, and he agreed to the things that you had mentioned?

Bill Jeffers: He was in the office at 4:30, and I advised him he would not have to appear here tonight. He agreed to all these, and they are reflected on the plat.

President Mourdock: Alright. Any questions for Bill? Anyone else in the audience wishing to address this issue? Is there a motion from the Board?

Commissioner Jerrel: I move approval of the plans for C & D drainage.

Commissioner Tuley: Second.

President Mourdock: I will say so ordered, and that is for final approval?

Bill Jeffers: Right.

BCH - Major commercial subdivision: Final approval

President Mourdock: The next item, BCH major commercial subdivision.

Bill Jeffers: BCH is a commercial subdivision consisting of six lots. We saw the preliminary drainage plan in December. It lies south of a large church lot. Well, you know the location. It's

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owned, and being developed by Mr. Earl Harp, who is here in the audience with his engineer, Mr. James Q. Morley. The plans were submitted in a timely fashion to the Vanderburgh County Surveyor's Office, and reviewed by our staff. We had several concerns with regard to the plans and met with Mr. Morley, Mr. Harp, and other representatives of the project this morning, and came to a resolution of our concerns. The resolution required the assistance of the Vanderburgh County Engineer, because our concerns revolved around the road plans. The resolution of our concerns has been presented by Mr. James Q. Morley to the Vanderburgh County Engineer, and he is requiring that additional details be submitted as a part of the road plan that you will be reviewing at your next week's County Commissioners' meeting. If those details are included and satisfy the County Engineer, they will also satisfy the Vanderburgh County Surveyor's Office. We are asking you at this time at the end of your meeting, to recess the meeting of the Vanderburgh County Drainage Board to be reconvened for approximately five minutes during your Vanderburgh County Commissioners' meeting when those road plans are presented to you next Monday. At that time if the details satisfy our concerns and satisfy the County Engineer's review of the road plans, our office will also recommend that the final drainage plans for BCH commercial subdivision be approved by your Board in final form. Then you could terminate the Drainage Board meeting and go back into your Commissioners' meeting. I expect that will take about five minutes.

President Mourdock: Okay.

Bill Jeffers: It will be done in conjunction with the road plans.

President Mourdock: Okay, since we need part of the...another part of the Commission staff involved here, John Stoll, County Engineer, I want to know, is what Bill just proposed, does that fit in with your schedule as far as you're going to be able to work through everything and make sure that you'll have some good, comfortable recommendation one way or the other?

John Stoll: Yeah, the majority of the revisions that were needed were more in regard to details on the drainage swales and things like that on the perimeter of that subdivision. The street plans looked in pretty good shape. There were some issues regarding an orifice plate that would be placed in one of the storm sewers in the County right-of-way...what will be County right-of-way. Those issues need to be resolved for the most part, as long as Mr. Morley's office can submit the plans over the next couple of days. I think next Monday would be realistic.

President Mourdock: Okay.

Commissioner Jerrel: Do we need to advertise this part?

President Mourdock: I think the question is, do we need to advertise that we're going to reconvene the Drainage Board meeting next week?

Joe Harrison, Jr.: If you're going to reconvene--

Commissioner Jerrel: The only other option would be to--

Joe Harrison, Jr.: You can have a special one. It's just got to...you've got to give 48 hours notice. So, if you could put something in the paper Thursday.

President Mourdock: Bill, as far as you know, does that take care of your need if we do it under a special?

Bill Jeffers: Yes, sir. I just want whatever is legal, and what best suits your purpose.

Joe Harrison, Jr.: I'd prefer that you do it that way.

Commissioner Jerrel: Okay, I'll make a motion that we advertise a special Drainage Board meeting for next week to address the BCH drainage plan.

President Mourdock: Okay, and with Commissioner Tuley, I know he had to step out of the room. So, I'll say second, and so ordered for that. That meeting would be on February 2nd.

Commissioner Jerrel: Right.

Joe Harrison, Jr.: Could you have...do you want to have it...I don't know if I'd have it at 5:30, I'd probably have it at either 5:15 or after the meeting.

President Mourdock: Why don't we do it immediately following as we normally advertise these?

Bill Jeffers: I should say that the need for this special meeting, and the reason the Surveyor's Office is asking for the special meeting, is that when the final plan is approved it allows the developer to acquire a building...to record his plat, acquire a building permit and proceed with the construction of a facility that's already in the works, its Assisted Care facility on Lot 6, that they're anxious to get a building permit for.

Joe Harrison, Jr.: Are you asking though that this Board consider preliminary approval?

Bill Jeffers: Preliminary approval has been granted.

Commissioner Jerrel: Yeah, this is the final that we're working on now.

Bill Jeffers: This will be final.

Joe Harrison, Jr.: Oh, I'm sorry. Okay.

Bill Jeffers: Preliminary approval was granted in December.

Joe Harrison, Jr.: Okay.

Bill Jeffers: It has been through Area Plan Commission and received their approval. These are minor details that we felt benefit a long-term maintenance that needs to be worked out.

President Mourdock: Just for the record, is there anyone in the

audience who wishes to bring anything to the Board's attention regarding that specific special meeting? I see no one rushing to the microphone.

John Irwin - Requesting ruling on his petition

President Mourdock: Okay, the next item on our agenda then is Mr. John Irwin requesting a ruling on his petition from the previous several months.

Bill Jeffers: The Board has received the Surveyor's report dealing with Mr. Irwin's petition. That report was entered into the record in your September meeting. Mr. Irwin is here in the audience, and I just have some notes here I'm going to follow to keep my mind on track. Mr. Irwin's petition alleges the existence of an obstruction near a surface watercourse serving his land. Mr. Irwin identifies it as soil that was removed to build the foundation on a building on the lot adjacent to his land and the soil was then dumped into the natural surface waterway. Our report confirms the existence of the natural surface watercourse. Our report also confirms Mr. Irwin's allegation that the obstruction partially obstructs that natural watercourse and the Surveyor declares at this hearing that the removal of the obstruction and the restoration of the previous natural grade within the area that we removed the obstruction will promote better drainage of the petitioner's land and will not cause unreasonable damage to the land of the respondent upon whose land the obstruction exists. I say that because that's kind of how the law reads. Now, if the Board finds for the petitioner, then the Board must determine whether the obstruction was created intentionally. I've read the statute and I don't find any definition that coaches you with regard to the word intentional. If the Board determines that the obstruction was created intentionally by the respondent you must enter an order either directing the respondent who owns the land on which the obstruction exists to remove it, or you may enter an order at this time directing the Surveyor to remove the obstruction. However, if you find that it was not created intentionally your choices are, to authorize the petitioner, Mr. Irwin, to remove the obstruction, or direct the County Surveyor to remove the obstruction. So, in either case, you can direct the County Surveyor. But if it's intentional, the respondent has to remove it. If it's unintentional, the petitioner would have to remove it. If you decided it was unintentional you must then first consult with the petitioner, the respondent, who is not here, I don't believe, and the Surveyor before entering your order under this unintentional category and that seems to be a prolongation of the deal. So, at this time the Surveyor will declare to the Board that sufficient discussion has passed between the Surveyor and the respondent to notify the respondent of the Surveyor's opinion that the obstruction exists, that the obstruction is, in fact, the dirt spoil that resulted from his construction activity and that the respondent will serve his own and the petitioner's own best interest by removing the obstruction. The Surveyor also declares at this time that the respondent acknowledged to the Surveyor during one of our conversations that he was aware of the location of the dirt spoil, and although he does not consider it to be an obstruction he did tell me that he intended to remove it as a part of his planned future construction activities.

President Mourdock: Time out right there, Bill. I have that in my notes from the last meeting, too, that Reverend Engler was here and he said it was going to be taken care of. First question, is there anyone here representing the respondent? Okay, I don't see anyone. Has there been anything done on the property that you're aware of as of today?

Bill Jeffers: The Surveyor visited the site at 2:00 p.m., January 26th, today. The dirt spoil still is situated in or near the same location as it has on previous viewing. Maybe I stapled those in the wrong order.

President Mourdock: No, you had them.

Bill Jeffers: So, yes, it's still there in the same location or approximately the same location as it was a month ago and the month before that. Therefore, if your Board were to declare that the obstruction has been created intentionally you will not have to consult further with the petitioner, the respondent, and the Surveyor before entering your order. You avoid having to authorize the petitioner, Mr. Irwin, to enter onto someone else's property to remove it and you may still order the Surveyor to remove the obstruction or have it removed. You may wish to order the respondent to remove it, if that's your wish. The Surveyor...if the Surveyor is ultimately ordered to remove this obstruction either due to the inability or uncooperativeness of the respondent we will do so only after we first notify the respondent with a ten day notice. The notice will include a general description of the nature and location of the obstruction and the method we intend to remove it with which is "B", using the manpower and tools currently available in our office, to which shovels, wheelbarrows, and by hand. Only if the Board authorizes the Surveyor with regard to go in onto the property and doing so. I find...I have found nothing in this statute that would prevent the Surveyor from physically taking his crew onto the property and physically removing it with shovels and wheelbarrows. Therefore, your legal staff has prepared two choices so that if you make your determination tonight you may order that if it's an intentional obstruction, you may order the respondent, which is the church, to remove the obstruction, and if it isn't done in ten days, subsequently the Surveyor shall carry out your order. You may order that it was or determine that it was unintentional and order Mr. Irwin to do so. I might close by saying that ultimately if it falls upon the Surveyor and his crew to remove the obstruction, that order of your Board will be carried out and if it involves no more than the manpower and the tools available to us we would say that the cost that would be borne by the respondent would be zero dollars and recommend that you refund Mr. Irwin his \$100.00 so that neither party would bear any cost of this proceeding. That's just a suggestion and we would be willing to carry that out, if it required no more than the manpower of our office to finish this up.

President Mourdock: The recommendation of the County Attorney?

Joe Harrison, Jr.: Well, you've got two entries that I think he's going to put in front of you. The...my recommendation would be to follow the first option which would be to find that it's an intentional obstruction and require the respondent to remove the obstruction within ten days. If the respondent fails to do so, the

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Surveyor's Office would be required to go out and try to remove the obstruction. If you want to consider the other options, that's up to you, but based upon the evidence, even the testimony of the respondent, it appears that obstruction was put there at their doing. It was not unintentional. So,--

President Mourdock: Is there a motion in that regard?

Commissioner Tuley: So moved.

Commissioner Jerrel: I'll second, and I have a question.

President Mourdock: Sure.

Commissioner Jerrel: I take it that the option of your removing it, you're not adverse to removing--

Bill Jeffers: No, ma'am.

Commissioner Jerrel: Okay, so if we ordered this, the ten day notice is sent out. But if it ultimately is removed by the Surveyor's Office then are you suggesting that the fee remain and --

President Mourdock: That's another issue. Let's hold that one for a second.

Commissioner Jerrel: Alright, I'll second that.

President Mourdock: Okay, so we have a motion and a second that we provide the ten day notice, and failing to have any action within the ten days we then direct the Surveyor's Office to clear the obstruction. That was the motion. There was a second. I will say so ordered. Now then, to the matter of the fee, go ahead Bettye Lou, with what you were--

Commissioner Jerrel: Well, I was pursuing that if, in fact, it is in agreement with the Surveyor's Office after they've examined the obstruction and it doesn't take anymore than their manpower, and their equipment that then the...and there is no bill that's owed, that we do refund the \$100.00 to Mr. Irwin.

Joe Harrison, Jr.: I was just going to say, you could come back next month and report on that, either it is or it isn't. If that's what you want to consider.

Commissioner Jerrel: Well, there's really no action we can take now unless you come back and report to us.

Bill Jeffers: Right. I just didn't want Mr. Irwin to leave this meeting thinking that the person or entity who caused the obstruction whether knowingly, intentionally, unintentionally, out of good faith, bad feelings or whatever, draws a zero dollar bill and he's waited since September and pay's \$100.00.

Commissioner Jerrel: I agree with you.

Bill Jeffers: Fair is fair.

Commissioner Jerrel: I agree with your position. I think we need...we have identified it as intentional.

Bill Jeffers: Right.

Commissioner Tuley: There's no way to bill him if you do it? There's no provision for it?

President Mourdock: That's an excellent question! Certainly we have a cost involved. Assuming that the respondent does not clean it up themselves, we have a cost involved.

Bill Jeffers: That's true.

President Mourdock: I think your other points are valid, but I think the intention of the legislation was that if, in fact, the County incurred some cost that having a fee would help cover that cost. Now, most obstructions I would suggest will probably not be cleared up with \$100.00, it's going to cost a lot more than that in most cases. Having said that, I also agree with your point that the guy that causes the obstruction ought not to get away with this at no cost either. I'm torn both ways.

Bill Jeffers: Rumors of my piety are greatly exaggerated. However, our office will not be sending a bill to a church. I don't want to get into another legal tangle like the first petition took us.

President Mourdock: Okay, Mr. Irwin did you have a comment? If so, you need to come to the microphone.

John Irwin: I'm John Irwin. I think I know you like family almost. As far as the \$100.00, I don't care. I want the obstruction out of there. It's been a long time and I think everybody in this room can see the respect that he has for not only us, but the Board, everybody in here. There's nothing to show. Now, as far as him paying the bill for him coming out there and doing it, I would expect he would. I don't expect the \$100.00 back. That was part of the deal, you put the \$100.00 up, fine. You're getting it taken care of. He's worked a whole lot more than the \$100.00 that I've ever spent.

Commissioner Tuley: You've never seen him in action.

John Irwin: Yes, I have. Right here, it's just been exceptional. I was...as the man said earlier, pleasantly surprised.

Commissioner Tuley: That was the whole base of my question. I don't think it's right that we sit through these hearings and if we go out and do it, he doesn't get a bill for it. He should get a bill.

John Irwin: I agree with you.

Commissioner Tuley: What if he takes it off himself?

John Irwin: I don't mean to disagree with you. One thing I will guarantee you, if you send him a ten day notice and ten days from now it still going to be the same thing.

Commissioner Tuley: That's why he's going out there and doing it.

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President Mourdock: Okay, let me just clarify something, Joe, regarding the payment of the cleanup. Let's assume the ten day notice is given, the person does not respond, can we in that same letter say if it is not cleaned up within ten days and the Surveyor's acts to clean it up, you will be billed at \$50.00 per man hour for each person out there?

Joe Harrison, Jr.: You can probably say whatever you want. The entry that you approve says that it's at his expense.

Bill Jeffers: Right, it says on the letter at your expense.

President Mourdock: Which would imply that if we needed to do a tax lien to clean that up, that's what we'd do.

Joe Harrison, Jr.: Yeah, but I don't know what the amount would be. It certainly says at his expense.

President Mourdock: Yeah, and I think we just need to clarify in the letter a billing rate per hour, and I would suggest \$50.00 an hour.

Bill Jeffers: Before you make a motion, it doesn't go an a tax lien under this statute. If it did you'd be taxing a church, okay, which I'm not apposed to, but I don't think it's ever been successfully accomplished. Secondly, if he doesn't pay it the statute does require you to take him or the owner, which may be the church, not Mr. Engler personally, but it requires you to take a church to a court to collect it. Circuit Court or Superior Court. That's where we tie up man hours testifying in front of a court, in front of a Judge who may be more pious than I.

Commissioner Jerrel: Well, we don't have to make the second motion.

President Mourdock: That's right.

Commissioner Tuley: No, we'll wait and see.

Commissioner Jerrel: The first motion has been made. We've ordered you, and we deemed it intentional. So, that's it.

President Mourdock: Regarding the letter itself, do we have an agreement that we include in the letter a billing rate, realizing number one, they may clean it up themselves and it's a moot point. Number two, even of we do clean it up through the Surveyor's Office that we still might have the option to consider sending that bill or not sending it?

Commissioner Tuley: Sure.

Commissioner Jerrel: Sure, that's fine.

Bill Jeffers: Keep it mind that no one in the Surveyor's Office is going to be hurt by a little exercise.

President Mourdock: I'm not touching that one. Is \$50.00 an hour a reasonable rate?

Commissioner Tuley: You're in the construction business, if that

sounds reasonable to you, I'll go along with it.

Bill Jeffers: It'll be about four guys and--

President Mourdock: It's \$50.00 per man hour.

Bill Jeffers: Oh, my!

Commissioner Jerrel: That's higher than what they earn--

Commissioner Tuley: Oh, \$50.00...yeah we can't, I'm sorry I thought you meant \$50.00 an hour. If they've got four out there I don't think you mean \$200.00 an hour. Is that what you mean?

President Mourdock: Yes, that is what I meant. The thought being we have to pay people probably by the time they get out there, they do the work for an hour, and it takes them an hour to come back, the time they're actually billed will be the time they are on the property.

Commissioner Jerrel: The actual rate of their pay though is closer to \$12.00 or \$13.00 an hour, which is near--

Bill Jeffers: Plus benefits.

Commissioner Jerrel: --plus benefits. So, you're probably talking --

Commissioner Tuley: Eighteen.

Commissioner Jerrel: Yeah, \$72.00 an hour for all four of them.

President Mourdock: Okay, \$75.00 an hour.

Commissioner Jerrel: Total.

President Mourdock: Just include that in the letter.

Bill Jeffers: Oh, you want that included in the notice? It's \$75.00, not per hour. Okay, I got you.

President Mourdock: Yes, Mr. Irwin.

John Irwin: After the ten days are up, how long is it going to take to Survey crew to clean it up?

President Mourdock: Okay, Bill?

Commissioner Tuley: About 11 days.

Bill Jeffers: At that rate of pay, we might want to retire on this.

President Mourdock: You'll be there within, weather permitting, two or three days.

Bill Jeffers: Weather permitting...well, okay, you've got to mail it with a green card notice so that it comes back to you proving his receipt of it. Then...so that could be 13 to 15 days from now.

John Irwin: Okay.

Bill Jeffers: If it's not frozen or wet, we're going to go out there and start. Nobody takes a vacation this time of year in our office. They all wait.

John Irwin: Then I could say the 20th of February it would be done.

President Mourdock: Yes.

Commissioner Jerrel: Right.

Bill Jeffers: It should be. Yeah, before the next meeting.

President Mourdock: Then we'll be able to report at the next meeting...you'll be able to report just the whole situation.

Bill Jeffers: It shouldn't take more than two calendar day to complete this.

President Mourdock: Sure.

Other business and claims

President Mourdock: Other business or claims to come before the Board?

Commissioner Jerrel: We have one other person...I'll move approval of the claims however, first. Then we have Mr. Storey.

President Mourdock: Okay, Is there a--

Commissioner Tuley: I second on the claims.

President Mourdock: Okay, on the claims a motion and a second. I'll say so ordered.

Bill Jeffers: I have--

President Mourdock: Thank you for your patience.

Bill Jeffers: --after Mr. Storey speaks. Then I have one comment and then I'll be finished.

Jesse Storey: Thank you. I'll not speak to you in terms of respondents, petitioners and so forth. I do have a problem--

President Mourdock: State your name please.

Jesse Storey: Jesse Storey, my address is 616 Biddle Court. in Perry Township, out in University Heights Subdivision. I have a drainage problem. I've spoken with Commissioner Tuley, Mr. Jeffers, in the Surveyor's Office. Everyone has tried to help me out here, but I still have a problem. I'm between a rock and a wet spot. My neighbor's property doesn't drain toward his drainage ditch, and consequently instead of draining toward the ditch it drains toward my yard. When we get anywhere from a medium to a hard rain everything comes off his yard, under my fence, and I eat it. The Surveyor's Office has been out and they've suggested a couple

things. The main thing they suggested was putting a berm along my property line, and then I find out that I maybe civilly liable if I block the water and detour it and it backs up on him. If I put that berm up, he's going to drown. He's going to float away. I can't afford the civil liabilities of being sued by him or by the County because I've detoured the water onto him. I need some direction.

Commissioner Jerrel: May I ask a question?

Jesse Storey: Yeah.

Commissioner Jerrel: Has anybody talked about you and your neighbor cooperating on an underground pipe large enough that would be on his property...begin on his and run to yours to whatever natural drainage that there should be?

Jesse Storey: I've had conversations on how the problem could be resolved with him. Everything was fine until the subject of dollars had come up. I'm not opposed to spending some money of my own, although I don't think it's my problem. I was ready to spend upwards of \$1000.00 to take care of what I would have to do on my side of the property. We had some estimates of \$2000.00 for his. Without some kind of action he's not going to do it.

President Mourdock: Okay, understand that...and obviously, you and I haven't spoke, and I'm not familiar with the property per se. The water is affecting your property or your home, your house, the structures?

Jesse Storey: It comes into my yard. It has been all the way up into my house, and when that happens, it not only affects my house, but it affects my wife's day care business. She is totally shut down. That doesn't just affect us, it affects ten other families who have to find another child care for those...for whatever days it takes to get the mess out and cleaned up and--

President Mourdock: Okay. How long has this problem been going on?

Jesse Storey: Well, I've had water coming over there since I've lived there, since 1990.

President Mourdock: Okay, did you build the house?

Jesse Storey: No, no it was...the house was built in the mid 70's.

President Mourdock: Okay. Bill, are you familiar with this one in any detail at all? Can you technically add anything at this point?

Bill Jeffers: I'm not personally familiar with it. Our survey crew has been out to visit the site and worked with Mr. Storey on a number of ideas which subsequently may have been interpreted as placing an obstruction in the watercourse or whatever. Mr. Storey has talked to a lawyer, subsequently. Some of the ideas proposed by the Surveyor's crew struck the lawyer possibly as civil liabilities.

President Mourdock: If the berm would be placed along the property line, is there a third party that is affected?

Bill Jeffers: I don't know the answer to that.

President Mourdock: Is it your attorney's feeling, Mr. Storey, that a berm there would simply cause the water to back up on the property from which it's originating?

Jesse Storey: Without a doubt, he is going to...all of the water that's coming my way is going to back up on him. There's nowhere else for it to go with the way his property drains.

President Mourdock: Okay. You're looking to us for direction?

Jesse Storey: So I can keep from getting sued, I hope. I'd like to fix it tomorrow.

Joe Harrison, Jr.: This Board really can't give advice, unfortunately. They can make rulings. They can't give advice regarding a solution to your problem. Based upon some of the things...whoever your legal counsel is they have...he or she has indicated there is a law out there in the state of Indiana that could be adverse to you depending on what you do. Not only the drainage obstruction statute but the common case law regarding the funneling of water back onto someone's property that's running onto your property. The only thing I might suggest and it might be something you might want to speak to your attorney about, is there is in Indiana a procedure that is used quite often, mediation. It might be that even though you don't have a pending lawsuit that you might want to see if that's a possibility with you and your neighbor where you could hire a third party to be a mediator and see if you can come up with some resolution on this issue. Obviously, it wouldn't be binding. It might be a way of at least getting the two of you together with your respective attorneys, if you want them, and some third party to try to get you to come to some consensus. That's just a thought.

Jesse Storey: Okay, I will take that to them, if I have to get an attorney. At this point I have not. My main...I guess what I really want to know is, I'm sitting there and the water is coming over without a doubt. Does this Board have some authority to do anything about it?

Commissioner Jerrel: Were you here earlier in the meeting when you heard us talking about a letter to Bob Bell on Ward Road outlining that he is going to have to deal with...he lives on Anthony Drive, that is at the bottom of a natural water pathway. He is going to have to deal with that water that comes on his property.

Jesse Storey: I was not here.

Commissioner Jerrel: Well, it's not similar, but it has some similarities.

Bill Jeffers: It's very similar in that there have been some alterations made to the private property near Mr. Storey's property that causes it. Even though he's at a lower point in the natural watercourse some of the actions by other individuals have caused more water to be directed in his direction quicker than before.

Commissioner Jerrel: Right.

Bill Jeffers: It's in a subdivision that did not come under the review of this Board back in the 70's nor the County Surveyor. It's one of those old--

President Mourdock: It may well be, Mr. Storey, since we're not in a position to rule one way or the other, and the County Attorney's advice being what it is, certainly you have that resource, the County Surveyor's Office, available to you as a resource to try and work through some of those things. My gut hunch is that the timing of how all this came about has some relevance and I'm not sure quite what that means, that's why I was asking if you built the house or I just heard Bill say that changes perhaps up slope from you have effected this. All that timing comes into it as far as who might be responsible. That's beyond this Boards purview, quite honestly.

Jesse Storey: Okay. I have some photographs here, but I think probably it's not going to make much difference to the Board what the photographs look like at this point.

Joe Harrison, Jr.: My concerns, sir, would be if you did something and someone did file a petition with this Board and it was one of those drainage obstruction petitions like what we were involved with prior to this. Then this Board would be sitting here ruling upon some advice that they had given you previously, and that certainly is not the position to be in. Basically for that reason they just can't get involved unless there's something pending in front of them.

Jesse Storey: Okay, and I understand that. The two reasons that I came here was to get whatever information I could. I certainly don't want to ruin a relationship with my neighbor because one of us will end up having to sue the other. At the same time, I can't afford to be under water again.

Commissioner Jerrel: Is it possible that, I mean, rather than building a berm and stopping the water from draining and flooding him, is there not anyway, Bill, that you can use underground pipe to drain an area?

Bill Jeffers: Usually, in the kind of rainfalls that are adversely affecting Mr. Storey, the pipe size that would be required to handle that amount of water either you can't acquire enough cover to cover the pipe because it's so large, or when you take the pipe down to any existing ditch that it could empty into, that ditch is not deep enough to receive the pipe without a portion of that pipe being out of the ground for a long stretch. It's just...it would be better to use earth berm and channels and landscaping and that type of thing to direct that water over to a receiving stream, if possible.

President Mourdock: Apparently there's not much grade here at all. As soon as you put a berm up you're going to be impounding water behind it.

Jesse Storey: Right, and my belief is, I can show you pictures if you would like to see them, that my neighbor landscaped his yard so

**Vanderburgh County
Drainage board
January 26, 1998**

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that the water drained backwards instead of to the side where it comes onto me, we wouldn't have that problem.

Commissioner Jerrel: Maybe, I mean, do you think that the idea of mediation is there any way, well, like for instance, if whoever has looked at this in the Surveyor's Office, if they identified that issue of how it's landscaped, and you made an offer to him that you would like to start a dialog and perhaps it might take an attorney or an outside person, would he be willing to at least cooperate?

Jesse Storey: I believe that if there was some written suggestion from the county government that certain things be done that he would be much more receptive than me walking next door telling him-

Commissioner Jerrel: Would he be receptive if the Surveyor's Office looked at and made that kind of recommendation as...not as representing the County Commissioners but representing someone who has the knowhow and technical knowledge to give advice on redirecting water, would that help?

Jesse Storey: I believe he would, yes.

Commissioner Jerrel: I don't know if you...how do you react to that, Bill?

Bill Jeffers: We only like to go onto private property if we're enabled by statute or directed by a governing body.

Joe Harrison, Jr.: Yeah, the only...I think they can be involved if they were called as...if you wanted them to be a witness or, you know, testify at mediation, or give a statement that was...here would you be willing to...if they would be willing to, or if there would be a suggestion made by their office as to how this could be resolved. Certainly that could be used by some mediator to try to get the parties to agree on something. As far as initiating the process, I'm not sure that's appropriate.

Jesse Storey: Okay, like I said, I'm here to learn what I can about it, and get what I can get done without having to dig in our pockets up front.

Commissioner Jerrel: Sure.

President Mourdock: Okay.

Jesse Storey: Again, I willing to do whatever I have to do because I can't afford to be wet again. On the other hand, I don't want be sued whenever I do it. Thank you.

President Mourdock: Okay, thank you, we appreciate your patience with us, and wish we had an immediate answer for you, obviously we don't.

Jesse Storey: Could I request, and whatever cost there is to it, to get a copy of these minutes?

President Mourdock: Oh, absolutely.

Commissioner Tuley: Sure.

Bill Jeffers: There may be things that a landscape architect or another type of technician could do closer to the foundation of the home to direct water through your own property that wouldn't back up on his. There may be that possibility that our crew didn't look at when they were out there at your request last time. I may make a personal visit as your friend of long standing just on a Saturday to see, because I'm not familiar with the site.

President Mourdock: Regarding your comment about the minutes. Just contact the Auditor's Office. Charlene, what will it be, probably the end of this week, you'll have these minutes transcribed?

Charlene Timmons: No, I usually don't provide copies to the public until after you guys have approved them.

President Mourdock: Oh sure, okay. So, they would be available after next month's meeting?

Jesse Storey: Okay, fine. I'll be gone a couple weeks anyway.

Commissioner Tuley: The fourth Monday, Jesse. Thank you.

Jesse Storey: Thank you.

President Mourdock: Thank you.

Commissioner Tuley: That's our next meeting. It'll be the fourth Tuesday then.

Other business

President Mourdock: Okay, other business to come before the Board?

Bill Jeffers: I just have a memo that I took to the Vanderburgh Building Commissioner this morning about when I happened to be out inspecting a subdivision that was under construction. I ran across a basement foundation that I think is a potential flood hazard. It's an unfortunate situation where the Building Commissioner, I guess, feels he's only empowered to enforce a flood protection grade two feet above what the FEMA flood panels show. FEMA flood panels at this point are computer generated, they're not determined by actual on ground surveys or studies. The particular stream that this home is being built next to is a natural stream that previously was open. It's now piped under a roadway that's been constructed, the pipe in the roadway will only handle a 25 year storm per ordinance. Immediately upstream there's a large wooded area and during the 1996 flooding this...let me just say, that this particular situation will mimic exactly what happened during the 1996 flooding where debris was flushed out of the woodland by these gully washers jammed into the pipe and then the roadway served as a dam and backed the water up to an elevation that flooded homes upstream of the street crossing.

President Mourdock: Which subdivision is this in?

Bill Jeffers: This is in Eagle Crossing. I wish we had caught this during review, and said no basements in either house on either side

**Vanderburgh County
Drainage board
January 26, 1998**

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of this stream. The house on the west side has no basement. The house on the east side appears as if they're going to build a basement there, and so, I'm trying to get this to everyone before ...while it's still just a two or three rows of block, before they spend too much more money. I really, truly believe this is a flood hazard. I want to enter this into the records as a C.Y.A. for all of us.

President Mourdock: Okay, thank you. Any other business to come before the Board this evening?

Bill Jeffers: Has anyone received a phone call from the developer of Windemere Farms, any Commissioner?

President Mourdock: No.

Bill Jeffers: Okay, I have no further business.

Commissioner Tuley: I will be willing to move for adjournment.

Commissioner Jerrel: Second. There are four copies of this, is that right?

Bill Jeffers: What is that?

Commissioner Tuley: The letter to--

Commissioner Jerrel: There's one original, is that all that you needed--

President Mourdock: For the John Irwin situation. I didn't realize you had the letter.

Bill Jeffers: That was so that each one of you had one in front of you, I'm sorry I didn't hand those out before I started talking.

Commissioner Jerrel: Just one of them we need to sign, the original, or do you want all four?

Bill Jeffers: Why don't you sign one original for our file, and one for Charlene's, how about that?

Commissioner Jerrel: Well, there's four of them--

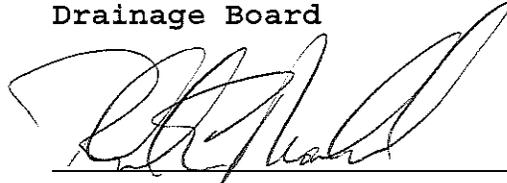
President Mourdock: Okay there is a motion for adjournment and a second, so I will say so ordered.

Meeting adjourned at 7:45 p.m.

Those in attendance

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
John Irwin
John Stoll
Jesse Storey
Others unindentified
Members of the media

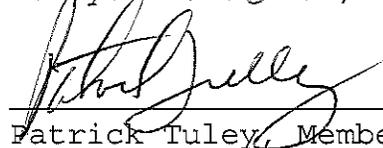
Vanderburgh County
Drainage Board



Richard E. Mourdock, President



Bettye Lou Jerrel, Vice President



Patrick Tuley, Member

AGENDA
VANDERBURGH COUNTY DRAINAGE BOARD
January 26, 1998
Room 307--6:30 p.m.

FINAL

- A. Call to Order**
- B. Approval of minutes**
- C. Drainage Plans**
 - 1. C & D 3-lot major subdivision: final approval**
 - 2. BCH major commercial subdivision: final approval**
- D. John Irwin requesting ruling on his petition**
- E. Other business and claims**
- F. Adjournment**

RE: JOHN IRWIN PETITION
ALLEGING THE OBSTRUCTION OF A NATURAL SURFACE WATERCOURSE

HEARING: 26 JAN 1998

1. IRWIN'S PETITION ALLEGES THE EXISTENCE OF AND OBSTRUCTION IN (AND/OR) NEAR A NATURAL SURFACE WATERCOURSE SERVING HIS LAND.

2. IRWIN'S PETITION IDENTIFIES THE OBSTRUCTION AS "THE SOIL THAT WAS REMOVED TO BUILD THE FOUNDATION DUMPED INTO THIS NATURAL SURFACE WATERWAY."

3. THE SURVEYOR'S REPORT CONFIRMS THE EXISTENCE OF THE NATURAL SURFACE WATERCOURSE.

4. THE SURVEYOR'S REPORT CONFIRMS IRWIN'S ALLEGATION OF AN OBSTRUCTION OR PARTIAL OBSTRUCTION OF THE SAME NATURAL SURFACE WATERCOURSE.

5. THE SURVEYOR DECLARES AT THIS HEARING THAT REMOVAL OF THE A QUANTITY OF THE SPOILED DIRT FROM WITHIN THE WATERCOURSE AND DISPOSAL OF SAME DIRT AT A LOCATION REMOTE FROM THE WATERCOURSE, THEN RESTORATION OF THE PREVIOUS NATURAL GRADE WITHIN THE AREA SUBJECT OF REMOVAL WILL:

A. PROMOTE BETTER DRAINAGE OF THE PETITIONER'S LAND;
AND

B. NOT CAUSE UNREASONABLE DAMAGE TO THE LAND OF THE RESPONDENT.

6. THEREFORE: THE BOARD MAY FIND FOR THE PETITIONER.

7. IF THE BOARD DOES FIND FOR THE PETITIONER, THE BOARD SHALL DETERMINE WHETHER THE OBSTRUCTION WAS CREATED INTENTIONALLY.

THE STATUTE DOES NOT DEFINE FOR NOR COACH THE BOARD WITH REGARD TO "INTENTIONAL."

8. IF THE BOARD DETERMINES THE OBSTRUCTION WAS CREATED INTENTIONALLY BY THE RESPONDENT, THE BOARD SHALL ENTER AN ORDER:

- A. DIRECTING THE RESPONDENT TO REMOVE THE OBSTRUCTION, OR
- B. DIRECTING THE SURVEYOR TO REMOVE THE OBSTRUCTION

9. IF THE BOARD DETERMINES THE OBSTRUCTION WAS NOT CREATED INTENTIONALLY, THE BOARD SHALL ENTER AN ORDER:

- A. AUTHORIZING THE PETITIONER TO REMOVE THE OBSTRUCTION, OR
- B. DIRECTING THE COUNTY SURVEYOR TO REMOVE THE OBSTRUCTION.

10. **NOTE:** THE BOARD MUST FIRST CONSULT WITH THE PETITIONER, RESPONDENT AND THE SURVEYOR BEFORE ENTERING AN ORDER UNDER THE "UNINTENTIONAL" CATEGORY.

11. THE SURVEYOR DECLARES TO THE BOARD THAT SUFFICIENT DISCUSSION HAS PASSED BETWEEN THE SURVEYOR AND THE RESPONDENT TO NOTIFY THE RESPONDENT OF THE SURVEYOR'S OPINION:

- A. AN OBSTRUCTION OF A WATERCOURSE EXISTS,
- B. THE OBSTRUCTION IS IN FACT THE DIRT SPOIL RESULTING FROM CONSTRUCTION OF A FOUNDATION,
- C. THE RESPONDENT WILL SERVE HIS OWN AND THE PETITIONER'S BEST INTEREST BY REMOVING THE OBSTRUCTION.

12. THE SURVEYOR DECLARES TO THE BOARD THAT THE RESPONDENT ACKNOWLEDGED TO THE SURVEYOR THAT THE RESPONDENT WAS AWARE OF THE LOCATION OF THE DIRT SPOIL, AND ALTHOUGH THE RESPONDENT DOES NOT CONSIDER THE SPOIL TO BE AN OBSTRUCTION, THE RESPONDENT TOLD THE SURVEYOR THAT HE INTENDED TO REMOVE IT AS A PART OF HIS PLANNED CONSTRUCTION ACTIVITIES.

13. THE SURVEYOR VISITED THE SITE SUBJECT OF THE PETITION AT OR ABOUT 2:00 PM, 26 JANUARY, 1998, AND OBSERVED THE DIRT SPOIL STILL SITUATED IN AND/OR NEAR THE NATURAL SURFACE WATERCOURSE AND IN THE SAME CONDITION AND LOCATION AS DURING THE PREVIOUS VIEWING.

14. THEREFORE, SHOULD THE BOARD DECLARE THE OBSTRUCTION TO HAVE BEEN CREATED "INTENTIONALLY," THE BOARD:

- A. WILL NOT HAVE TO CONSULT WITH THE PETITIONER, RESPONDENT AND SURVEYOR BEFORE ORDERING THE REMOVAL,
- B. AVOIDS HAVING TO "AUTHORIZE THE PETITIONER" TO ENTER UPON THE LAND OF THE RESPONDENT, AND
- C. MAY ORDER THE SURVEYOR TO REMOVE THE OBSTRUCTION.

15. IF THE SURVEYOR IS ORDERED TO REMOVE THE OBSTRUCTION, HE WILL DO SO:

- A. ONLY AFTER FIRST NOTIFYING THE RESPONDENT(S) WITH A "TEN DAY NOTICE" INCLUDING A GENERAL DESCRIPTION OF THE NATURE AND LOCATION OF THE OBSTRUCTION AND INTENDED METHOD OF ITS REMOVAL,
- B. ONLY USING MANPOWER AND TOOLS CURRENTLY AVAILABLE TO THE SURVEYOR AT HIS OFFICE,
- C. ONLY IF THE BOARD AUTHORIZES THE SURVEYOR WITH REGARD TO 15A & 15B ABOVE.

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

BEFORE THE VANDERBURGH COUNTY DRAINAGE BOARD

IN RE: PETITION OF JOHN D. IRWIN TO
REMOVE A DRAINAGE OBSTRUCTION
AT 4105 NORTH GREEN RIVER ROAD

ORDER

John Irwin filed his petition with this Board on September 22, 1997, concerning an alleged drainage obstruction located on 4105 North Green River Road, that property being occupied by respondent Word of His Grace Fellowship Church. This Board heard this matter on November 24, 1997 and December 22, 1997. Based upon the evidence adduced at such hearings, and being otherwise duly advised, this Board now finds that Mr. Irwin's petition is well taken. This Board further finds that an obstruction of a drain or natural surface water course exists on respondent's land at 4105 North Green River Road. The obstruction affects Mr. Irwin's land at 4103 North Green River Road. Removal of the obstruction will promote better drainage of Mr. Irwin's land and will not cause unreasonable damage to respondent's land. This Board further finds, by a preponderance of the evidence, that the obstruction was intentionally cause by respondent. It is, therefore,

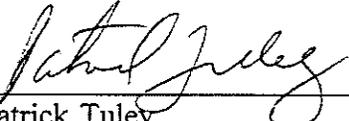
ORDERED that the petition in this matter is granted. Respondent is ordered to remove the obstruction within 10 days of the date of this order. If Respondent fails to fully comply with this order within such time period, this Board authorizes and directs the County Surveyor to remove the obstruction at respondent's expense.

DATED this 26th day of January, 1998.

VANDERBURGH COUNTY
DRAINAGE BOARD


Bettye Lou Jerrel


Richard E. Mourdock


Patrick Tuley

DISTRIBUTION:
Mr. John Irwin
Paster Dennis Engler

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

BEFORE THE VANDERBURGH COUNTY DRAINAGE BOARD

IN RE: PETITION OF JOHN D. IRWIN TO
REMOVE A DRAINAGE OBSTRUCTION
AT 4105 NORTH GREEN RIVER ROAD

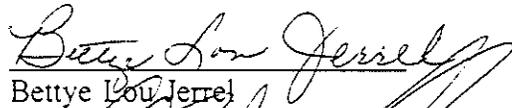
ORDER

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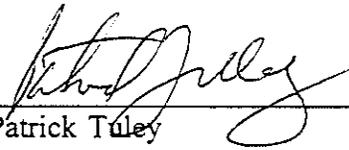
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DATED this 26th day of January, 1998.

VANDERBURGH COUNTY
DRAINAGE BOARD


Betty Lou Jerrel


Richard E. Mourdock


Patrick Tuley

DISTRIBUTION:
Mr. John Irwin
Pastor Dennis Engler

MEMO

26 Jan. 1998

TO: Vanderburgh County Building Commissioner
FR: Vanderburgh County Surveyor

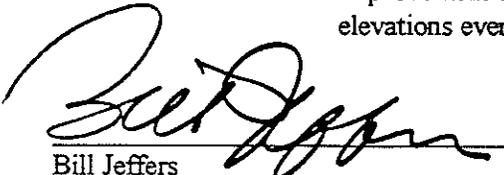
RE: 11009 EAGLE CROSSING DRIVE *POTENTIAL FLOOD HAZARD*

Please be advised the undersigned chief deputy of the Vanderburgh County Surveyor has visited the above referenced address on Thursday, January 22, 1998, and observed what appears to be a walk-out basement foundation on Lot 3 of Eagle Crossing Subdivision Section I.

The subject foundation is located in close proximity to a natural stream which passes through a roadway culvert immediately downstream of the referenced construction site.

The undersigned chief deputy feels the basement under construction at 11009 Eagle Crossing Drive is in danger of flooding during heavy rain storms because:

1. The culvert is not sized to handle storm runoff from events exceeding 25 year return period rainfall intensities.
2. Debris from wooded property upstream likely will obstruct the culvert during "gully washers."
3. The roadway constructed across the stream will act as a dam during events associated with conditions described in 1 & 2 above.
4. The basement under construction is several feet lower than the lowest available overflow across the road bed.
5. Storm water stacking in the waterway during events described above may only escape along the north line of lots numbered 1 & 2 in Eagle Crossing Sub., thence west into Petersburg Road.
6. Elevations along the route of overflow described in 5 above are such that an FPG of 410.0' may not be sufficient to protect the basement from flood water at this time; and subsequent improvement on adjacent properties may raise the critical elevations even more.


Bill Jeffers

cc: Drainage Board
Hatfield Bros., Inc.

VANDERBURGH COUNTY
DRAINAGE BOARD MEETING
JANUARY 26, 1998

No.	Printed Name	Affiliation
1.	THOMAS J. DIETER	RESIDENT OF MCCUTCHANVILLE
2.	JESSE STOREY	RESIDENT OF PERMY TWP - OH
3.		
4.		
5.		
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VANDEBURGH COUNTY
DRAINAGE BOARD MEETING
JANUARY 26, 1998

No.	Printed Name	Affiliation
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CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN
IN VANDERBURGH COUNTY, INDIANA

By this Instrument, I, John A Rollitt
(printed name of representative)

representing Union Township Ditch Association, 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.

John A Rollitt - representing Union Township Ditch Association
(signature in ink)

NAME OF DRAIN: CYPRESS DALE / MADDOX ACCOUNT #: 234-012
CONTRACTOR: Union Township Ditch Association VENDOR #: 1259

ANNUAL MAINTENANCE COMPLETION DATE: Nov 6, 1997
 ADDITIONAL MAINTENANCE INSPECTION DATE: Nov 12, 1997
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: _____

Robert W. Brenner for
Robert W. Brenner, Vanderburgh County Surveyor

1-26-98
Date

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN
IN VANDERBURGH COUNTY, INDIANA

By this Instrument, I, John A Rollett
(printed name of representative)

representing Union Township Ditch Association, 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.

John A Rollett - representing Union Township Ditch Association
(signature in ink)

NAME OF DRAIN: BARNETT DITCH ACCOUNT #: 234-008
CONTRACTOR: Union Township Ditch Association VENDOR #: 1259

ANNUAL MAINTENANCE COMPLETION DATE: _____
 ADDITIONAL MAINTENANCE INSPECTION DATE: _____
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: _____

Robert W. Brenner
Robert W. Brenner, Vanderburgh County Surveyor

1-26-98
Date

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X John Maurer
(Signature in Ink)

representing JOHN MAURER, and presently
under contract with the Vanderburgh County Drainage Board to perform
certain maintenance on BAEHL DITCH, 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: BAEHL DITCH # 234-007

CONTRACTOR: JOHN MAURER VENDOR # 1483

CONTRACT # _____ AND/OR ACCOUNT # 234-007

- ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE OCT 15, 1997
INSPECTION DATE NOV. 07, 1997

- WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Robert W. Brennan

VANDERBURGH COUNTY SURVEYOR

1-26-98

DATE

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I

[Signature]
(Signature in Ink)

representing Big Creek Drainage Assoc., and presently under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on Buente Upper Big Creek, 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: Buente Upper # 234-010

CONTRACTOR: Big Creek Drainage Assoc. VENDOR # 0986

CONTRACT # _____ AND/OR ACCOUNT # 234-010

- ANNUAL MAINTENANCE
 - ADDITIONAL MAINTENANCE
 - EMERGENCY MAINTENANCE
- COMPLETION DATE _____
INSPECTION DATE _____

- WORK IS APPROVED
- NOT APPROVED: COMMENTS: _____

[Signature] 1-26-98
VANDERBURGH COUNTY SURVEYOR DATE

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I *David R. Ellis*
(Signature in Ink)

representing *Big Creek Drainage Assoc.*, and presently
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on *ZUSHER DITCH*, 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: *ZUSHER DITCH* # *234-035*

CONTRACTOR: *Big Creek Drainage Assoc.* VENDOR # *0986*

CONTRACT # _____ AND/OR ACCOUNT # *234-035*

- ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE *Nov 21, 1997*
INSPECTION DATE *Nov 14, 1997*

- WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Robert W. Brennan, Inc.
VANDERBURGH COUNTY SURVEYOR

1-26-98
DATE

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Eugene M. Hehn
(Signature in Ink)

representing BIG CREEK DRAINAGE ASSOC., and presently
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on ROUND FLAT LAT "C", 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: ROUND FLAT LAT "C" # 234-032

CONTRACTOR: B. C. D. A. VENDOR # 0986

CONTRACT # _____ AND/OR ACCOUNT # 234-032

- ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE Nov. 13, 1997
INSPECTION DATE Nov. 27, 1997

- WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Robert W. Brenner
VANDERBURGH COUNTY SURVEYOR

1-26-98
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: DIG CREEK DRAINAGE

ASSOC.

for annual -- additional maintenance to
POND FLAT "C" LATERAL Ditch, a legal drain
in Vanderburgh County, Indiana, was completed on
JAN 5, 1998, and was inspected by
our staff on JAN 13, 1998, 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

1-26-98

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
AAAID LON Ditch, a legal drain
in Vanderburgh County, Indiana, was completed on
JAN 2, 1998, and was inspected by
our staff on JAN 13, 1998, 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

1-26-98

Date

Additional Comments:

Warrant No. _____
Claim No. _____
Date _____

IN FAVOR OF
Vendor Name Big Creek Damage Assn.
Vendor No. 0986

\$ 1,904.44
ON ACCOUNT OF APPROPRIATION
Dept. Fund Name MAINTENANCE DISTRICT
Account No. 234-028

Allowed 1-26 1998
In the sum of \$
Robert J. Jones
Michael J. 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

Jan 26 98
Robert J. 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
97-FM-28-85		JAN. 2, 1998	234-028	1,904.44

TOTAL 1,904.44

**Vanderburgh County
Special Drainage Board Meeting
February 2, 1998**

The Vanderburgh County Drainage Board met for a special meeting on this 2nd day of February, 1998 in the Commissioners' Hearing Room of the Civic Center Complex at 7:45 p.m. with President Richard E. Mourdock presiding.

Call to order

President Mourdock: Okay, we'll call the special Drainage Board meeting of February 2, 1998 to order.

BCH Commercial Subdivision - Final drainage approval

President Mourdock: This meeting is specifically for the purposes of conducting final approval of the BCH Major Commercial Subdivision. At our last regular Drainage Board meeting we took this under advisement until this meeting. We have a letter in our files, in our hands, from the Surveyor's Office requesting...or bringing us up to date. The first paragraph of that letter says:

"With regard to the final approval of drainage plans submitted by Morley & Associates for the BCH project, the Surveyor recommends approval of the same conditioned upon the positive recommendation of the Board of Commissioners by the Vanderburgh County Engineer's street plans submitted by the same consultant for the same project."

We have acted and approved those as the County Commission, so I would look for a motion of approval of the final drainage plans for the BCH project.

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Commissioner Tuley: Move to adjourn.

Commissioner Jerrel: Second.

President Mourdock: There being no other business we are adjourned.

The meeting was adjourned at 7:47 p.m.

Vanderburgh County
Drainage Board Meeting
February 23, 1997

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**Vanderburgh County
Drainage Board Meeting
February 23, 1998**

The Vanderburgh County Drainage Board met in session this 23rd day of February in the Commissioners' Hearing Room of the Civic Center Complex at 7:38 p.m. with president Richard Mourdock presiding.

Call to order

President Mourdock: Okay we'll call this meeting to order, February 23, 1998 of the Vanderburgh County Drainage Board meetings, a meeting, rather singular. We've already had two meetings tonight. Hopefully, this will be a singular meeting. Just by way of rules of the house, if you will, I know there's a number of you here tonight on several different issues. If someone goes to the microphone and speaks to the issue that you wish to address, and says exactly what you're going to say, or something close to it, it's not necessary to come to the microphone and repeat everything word for word. If you like, you can just waive your hand and say ditto, and we'll understand that there are two people making that point of view. Secondly, when you do come to the microphone, because our recording system isn't the greatest, we need to have you come clear up to the microphone if you wish to speak and state your name and address for the record. As you probably know, the County Commission which is Commissioner Tuley, Commissioner Jerrell, and myself, make up the Drainage Board. The County Attorney at the far right is Joe Harrison, Jr., and Charlene Timmons is at my left.

Approval of minutes

President Mourdock: Having said all that, the first item of business this evening is the acceptance of the minutes of the Drainage Board on January 22, 1998.

Commissioner Jerrel: I'd like to move approval of the minutes of the previous Drainage Board meeting.

Commissioner Tuley: Second.

President Mourdock: So ordered, and also we had a Drainage Board meeting, a special meeting, on February 2, 1998. Those minutes are also in our packet.

Commissioner Jerrel: I'll also ask that we approve those.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Harmony Hollows Subdivision - Preliminary drainage plans

President Mourdock: Alright the first item to review this evening then from the County Surveyor's Office, Deputy Surveyor, Bill Jeffers, to tell us about Harmony Hollows Residential Subdivision, preliminary plan.

Bill Jeffers: There's not a whole lot to say about Harmony Hollows Estates. It's a large parcel of property out on the west side off

of Harmony Road, just a little bit...or maybe just a little bit west of Red Bank Road. There's a road across from Red Bank called Jennings Lane that runs back parallel with this piece of property. It's four lots. Each of the lots are in excess of three acres. The smallest one is 3.2, and the largest one is 3.89, or almost four acres. Jim Farney, the engineer for the landowner, is sitting here in the audience next to Mr. Ream and he has submitted a report showing that...basically, saying that this is located on a steep piece of property, and totally wooded, and has a runoff factor of about 48%. The owners intend on only clearing enough of each lot to place a house and do not want to disturb the wooded areas anymore than they have to, to establish a lawn around the house. In order to do that, you can see from the steepness of some of the slopes, they're going to have to flatten some of that terrain to build a dirt pad to sit the house on so that will slow down the velocity of the water that runs off the area that's turned into a lawn. Clearing the woods and establishing a lawn immediately around the house will also increase the absorption rate of some of the water that falls on the ground, and slow the velocity down of the rest of the water that runs off, and down hill. I'll just say that the last statement in Mr. Farney's report, after he shows that it would only take one third of an acre foot of storage to meet our requirements, and if you would spread that four inches depth out over this entire subdivision, the detention basin that would have to be built to do that would be insignificant. He asked the Board to waive the requirement for detention on this subdivision because it would basically just require additional clearing of the wooded land, and cause more land disturbance. The Vanderburgh County Surveyor's Office concurs that to require detention would serve no purpose other than to disturb additional land and make that steep land subject to erosion. Therefore, we recommend the Board waive the requirement on this subdivision for detention, and allow it to go forward to Area Plan Commission with an approved final drainage plan. I don't know if there is anyone here in the audience who would like to speak to that, but that is our--

President Mourdock: Anyone wishing to speak to the issue of the preliminary drainage plan for Harmony Hollow Estates? I see none. Any questions from the Board members regarding this?

Commissioner Jerrel: I'll move approval of the preliminary plan for Harmony Hollows.

Commissioner Tuley: Second.

President Mourdock: So ordered, on preliminary plan. Note for the record that preliminary plan excludes a detention pond.

<p>Waterford Park - Preliminary approval of Lots 4B3, 4, 5 - Final approval of Lots 4B1, 2</p>

Bill Jeffers: Our second item is Waterford Park, which is a commercial subdivision. What we have is the replat of Lot 4. Waterford Park has an approved preliminary drainage plan, but the marketing scheme that Mr. Joe Ream, who is the developer, has been following required that this large parcel known as Lot 4 be broken down into several small parcels. So, what I'm showing you on that display is that the developed lots on the right-hand side of the drawing include the Hair Replacement Clinic and the day care center, and so forth. That's already totally established in lawns

and buildings, and occupied by the people who have developed that. The pink outlined area on the left-hand side of the sheet is Bernardin Lochmueller and Associates' building, that's completely constructed and occupied. All that area outlined in either orange or yellow in between that is what is now known as Lot 4. What they have done is divided Lot 4 into two approximately equal pieces, leaving the large 3.38 acres abutting Bernardin & Lochmueller as one large lot awaiting for prospective buyers. I anticipate it'll be broken up into exactly what you see outlined in yellow on the other side which is, I'm calling it block one, composed of Lots 4B1, 4B2, for which he already has buyers, and he has located the buildings on those lots to show you who the prospective tenants are. Then on the other side of the street shown as Mortensen Lane, is Lots 4B3, and 4B4. They don't at this time have prospective buyers, but he anticipates it'll be the same size and style of building. Then again, the other three...3.4 acres is going to be left open until he discovers exactly how to market it. Okay, the reason we've broken it down this way is we've outlined in yellow what the developer is asking for, for final drainage approval, a final plan to be approved. The reason for that is that subsequent to the Area Plan Commission, first week of March, he wants to be able to record the area outlined in yellow which is, I guess, 4B1 and 4B2--

Commissioner Tuley: Right.

Bill Jeffers: --so that he can acquire building permits for those two tenants who want to build immediately. The rest of the area that's outlined in orange, which is 4B3, 4B4, and the large lot, 4B5, he's asking for preliminary drainage approval until he decides...until he finds out what buildings will go in there, and exactly where the drainage basins will be placed, and possibly another street will be built over there that will be a mirror image of Mortensen Lane. The submittal that comes with this request has sufficient data for us to recommend final drainage approval on 4B1 and 4B2, and preliminary drainage approval on the rest of the lands. We do recommend that take place at this time.

President Mourdock: We have not seen...this Board has not seen through the normal preliminary process though, 4B1 and 4B2? We're getting that tonight in both preliminary and final, essentially?

Bill Jeffers: Yes, sir. The details are either on the sheet or in this report sufficient to satisfy the requirements for a final drainage plan.

President Mourdock: Final, very good.

Bill Jeffers: It did have a preliminary drainage plan way back when he first platted it as one large lot. This is basically a modification.

President Mourdock: Okay, thanks, Bill. I think it's pertinent that we vote on this in basically two separate steps here. Before we do that, is there anyone here tonight to comment on the...either the preliminary or the final plan for Waterford Park? Seeing none--

Commissioner Jerrel: I'll move that the preliminary plans be approved for--

President Mourdock: Give the lot numbers.

Commissioner Jerrel: --yeah, for 4B1 and 4B2.

Commissioner Tuley: Those are final.

President Mourdock: Those would be final.

Commissioner Jerrel: Well, didn't you say do them both?

President Mourdock: No, no. I meant do this--

Commissioner Jerrel: Oh, okay, I'm sorry. I thought you were saying do those, the preliminary, and the final two motions even though it was...okay, then I'd like to move preliminary approval for 4B3, 4B4, and 4B5.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Commissioner Jerrel: Then the final approval for 4B1 and 4B2.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Corressell Court - Final drainage plan

Bill Jeffers: The next item is Corressell Court, which is also a commercial subdivision which happens to be west of the one we just looked at. I guess you all, in your previous meeting, were speaking with Mr. Woodward about a parcel of land that lies between Waterford Park and Stockfleth Ditch, and then immediately west of Mr. Woodward's parcel that you spoke about, is this subdivision which if it were oriented north and south, would look like--

President Mourdock: This is where...the one you just signed. This is the ditch you mentioned that he is going to relocate.

Bill Jeffers: Here is Stockfleth Ditch that he wants to bring over.

President Mourdock: Right.

Commissioner Jerrel: Uh-huh.

Bill Jeffers: On the very north end you have Oak Grove Road. On the south you have what will be Columbia Street, and then half way in between is Vogel Road. This is a long narrow subdivision. It was submitted to us by Morley & Associates by Daryl Helfert who is here tonight. This is a final drainage plan which has already received preliminary drainage approval a month or two ago. I sent it back to have some modifications made because, specifically the drainage basins encroached on the setback from the top of the bank of Stockfleth Ditch. That was basically all that needed to be modified, and some minor details showing the separation between these properties and the properties to the west, which is Mr. Rheinhart's Vogel Commercial Park. This drainage plan is almost

identical to Vogel Commercial Park which is working well. It does require the relaxation of a 75 foot setback from the top of the bank of Stockfleth Ditch, down to a 25 foot setback where it affects lots 25, 26, and 27 only. It has been submitted with sufficient data for the County Surveyor to recommend approval of a final drainage plan and including the recommendation to the Board that a relaxation of a 75 foot setback to a 25 foot setback be allowed where it affects lots 25, 27, and 26 of this plan.

President Mourdock: Okay, anyone here to speak to the Corressell Commercial Subdivision final approval? Board?

Commissioner Jerrel: I'd like to move approval of the Corressell Court, final approval for that subdivision, or development.

Commissioner Tuley: In your motion then would you include the approval of the waiver of the standard 75 foot setback to the 25 for the three lots 25, 26, and 27?

Commissioner Jerrel: Yes, I will.

Commissioner Tuley: I'll second your motion.

President Mourdock: Okay, a motion and a second. I will say so ordered, with that note.

Winstead Place - Final drainage plan

Bill Jeffers: The next subdivision is known as Winstead Place. It's a residential subdivision on the west side, on Hogue Road. Hogue Road forms the southern boundary, and the northern boundary is formed by Carpenter Creek. My coloring jobs are a little sloppy this month because we had other things we had to complete. So, pardon my messy artwork there. Basically, what I've done on this one is outlined in blue the path that the drainage will take down the hill either through pipes from the streets. The pipes empty into open drainage swales, and then where the terrain really gets rough and is not going to be developed, it passes in two cases through natural surface waterways that would be detrimental to disturb because of their steepness and their current vegetation. Those have been shaded in green. The engineer designated those natural surface watercourses so that we know, and the developer knows that they cannot be obstructed. The water then passes down into some dirt basins, is held, and released at the runoff rate that is prescribed by our ordinance and ultimately is discharged into Carpenter Creek. The discharge points are well outside what is anticipated to be the floodway and therefore, should not require any involvement of the Department of Natural Resources. The Department has been contacted and could not give a definite prescribed floodway, so the engineer set one theoretically well away from what we believe the Department of Natural Resources would have set it. Everything appears to be in order, and the Vanderburgh County Surveyor's Office recommends approval of the final drainage plan for Winstead Place.

President Mourdock: Anyone wishing to address this issue, Winstead Place? The Board?

Commissioner Jerrel: I'll move approval of the Winstead Residential

Subdivision final approval.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Carneal Commercial Court Section 2 - Final drainage plan

Bill Jeffers: The next subdivision is Carneal Commercial Court, which is located on Green River Road, South Green River, several hundred feet north of I-164. I think it's basically across the street from Frisse Avenue where all the apartments are below Pollack. For anyone who may be in the audience or on the Board that's concerned about the drainage in Green River Road at that point, this is Phase 2 of Carneal properties. Some of Phase 1 drains out into the Green River Road storm sewer system that was improved with the widening of Green River Road by the County. This portion all drains to the east. I think I outlined the commercial area in blue or green. Green, yeah. Those will be commercial lots very similar to the lots that are already facing on Green River Road. I outlined the apartment project in pink. All this is carried...all the apartment project is carried to that central drainage basin, which is a dry basin. It will drain dry and be a part of the lawn except for some very small fringe areas which drain into the next basin up in the corner. Most of the parking lots, all the rooftops, and all the yard areas except for a very small portion drain to that central basin for the apartments. The commercial area that's outlined in green drains along the north line into that smaller basin up at the very northeast corner. The controlled outlet from the basin in the middle of the apartments ultimately drains through that basin as well. It comes out this way and goes through the basin. The sole discharge point for all the water within Phase 2, which is everything that's before you tonight, commercial and apartments, the sole point of discharge from this is at the very northeast corner of the property into an easement which Mr. Jeff Carneal has acquired from his neighbor, a farmer who owns the land between Mr. Carneal and Aiken Ditch, which is a regulated drain in Vanderburgh County that we maintain. He's acquired a 25 foot easement and he's taking all the water after it's been detained and released at the prescribed rate according to our ordinance and delivering it to Aiken Ditch. Now, since we first started this project several years ago with Mr. Carneal there has been some things happen to Aiken Ditch down toward the levee pump station in an area that was formerly used as a nursery where the ditch was partially obstructed by some activity in the nursery. From time to time we tried to correct that, but we were not always able to sufficiently correct it, and some of the...some silt has accumulated in that ditch, as much as a foot in some places. There's some places where it is a little over a foot deep. That ditch is going to have to be cleaned out for this plan to work properly down to its original flow line that was established, oh, 10 or 12 years ago. That's common throughout the county, silt accumulation in flat areas that are under a lot of agricultural and commercial pressure. Mr. Carneal is ready to go forward with this plan. The plan conforms to the requirements of the ordinance. We are going to recommend approval of this as a final plan and Mr. Carneal wants to start right away, and will take a dirt contractor out and work on his work as well as Aiken Ditch, but I want to say he may come back, and it will most likely be with the blessing of

the County Surveyor, and ask for some contribution from our Aiken Ditch account for the work that he is going to perform in Aiken ditch to reestablish the prescribed flow line so that this will operate properly. He's willing to pay for a lot of it, and after we find out what our cost for the annual maintenance to Aiken Ditch is and discover what our surplus will be in that account we'll come back to you some time this summer and recommend that you reimburse him up to possibly 50%, whatever we can afford. What he will do will be under our inspection, and our approval of this drainage plan.

President Mourdock: Okay, we have the recommendation of the County Surveyor's Office. Anyone in the audience wish to address the Carneal Subdivision?

Commissioner Jerrel: I'll move approval of the Carneal Commercial Subdivision 2 final approval.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Breckenridge Subdivision - Preliminary drainage plan

Bill Jeffers: Well, that didn't totally clear the audience.

President Mourdock: We hit a nerve though.

Bill Jeffers: Apparently, we will have comments on this one. This is Breckenridge Subdivision, which is on its way to Area Plan Commission next month. Breckenridge Subdivision is located on Boonville-New Harmony Road, immediately east of the intersection of Boonville-New Harmony and Petersburg Road. Because it's such a large piece of paper, Mr. Poff reduced the drawing to a size you can hold in front of you while the discussion progresses.

President Mourdock: How many acres are we talking about? I don't see a scale on here yet.

Commissioner Tuley: It's 26.02, 82 lots.

President Mourdock: Okay, Thank you.

Bill Jeffers: Right, this 82 lot--

Unidentified: Eighty one.

Bill Jeffers: I thought I circled 82 at the top.

President Mourdock: Good, we have a real map, much better thank you.

Commissioner Tuley: It's 81 then?

Unidentified: Yes.

Bill Jeffers: Okay, was that Area Plan Commission wanted you to extend the street and you lost a lot. Is that what happened? Right, Area Plan wanted them to extend a street so that there would be

access to a neighboring property and they lost one lot.

President Mourdock: Okay.

Bill Jeffers: So, it's 81 lots now. Basically, the drainage plan...this is a preliminary drainage plan which must pass your Board before they can advance to Area Plan Commission. For the benefit of those in the audience who have not had that explained, what our ordinance allows is that the developer submit a preliminary drainage plan with enough detail for us to review it and say whether or not it's a basically workable drainage plan under the provisions of our drainage ordinance without going to great detail that would cost substantially more money prior to going to Area Plan Commission.

President Mourdock: Let me add something to that, that I should have said at the outset of this meeting and didn't. Because this does go on to Area Plan Commission and they deal with a number of issues, the only issue that this Board deals with is the drainage issues. So any discussions or any comments tonight, the only ones we can take are those related directly to drainage.

Bill Jeffers: That's correct. By the same token, the Area Plan Commission requires some drainage...requires a drainage approval of at least a preliminary plan before they will consider it because when it's in front of Area Plan Commission next month, they will not discuss drainage at all.

Commissioner Tuley: Drainage.

President Mourdock: Drainage, right.

Bill Jeffers: They will only discuss the other issues such as traffic or density, or what have you. Having said all that, this plan is very detailed and extensive for a preliminary plan, and would almost qualify as a final drainage plan. It has a lot of detail. The reason for that is because there are two watersheds, basically, that leave this project into two separate branches of a creek that runs south through neighboring property owned, I believe, by Mr. McCutchan. Each one of those branches, or a creek, whatever you want to call it, but it's not a...it doesn't run full of water all the time, so I'm calling it a branch. The allowable runoff rate according to our ordinance would have been approximately 75 cubic feet per second on each one of them, 17.5 cubic feet on each one of them. I had that written down on another sheet, but it got so messy I didn't want to put it in front of you. The developer wanted to take all the runoff into this one lake, which is approximately one and a quarter acre lake, a standing body of water, and discharge it through the western most branch at that rate of 17.5 cubic feet per second that would be allowed at that point of discharge. That point of discharge is along the orange line down into Jack and Asella Merle's property. In other words, the--

President Mourdock: The extreme southwest corner of the map.

Bill Jeffers: --extreme southwest corner. That branch...he would have been allowed to discharge 17.52, or 17.55 cubic feet per second during a 25 year storm after development. He would have also

been allowed to discharge 17.5 cubic feet at another point farther to the east exiting Lot 19. So, he could have discharged approximately 35 cubic feet per second at one time. He's reduced that to 17.5 feet per second by running it through this lake. That's a drastic reduction in the amount of runoff that will occur, he has cut it in half during a 25 year storm. But then the developer, apparently to make the lake large enough to give him enough lake front lots, to market his lake front lots, went a step further and made the lake bigger, and he has given us some tabulations that show that during...what it basically shows is that the ten year undeveloped release rate as it currently sits as an agricultural field would be 17.5 cubic feet per second. The required storage during a 25 year storm would be 71,769 cubic feet, and the required storage rate holding it back to that discharge rate, the required storage rate for a 100 year storm, would be 102,383 cubic feet. But, in fact, the way he's designed this lake with two and one half foot of storage, and another foot of freeboard on top of that, the available storage in this lake as designed is 136,720 cubic feet, which is double the required 25 year storage. It also indicates that it would take a storm in excess of a 100 year storm before that rate of 17.5 cubic feet through the primary spillway is exceeded, and the water has to come out the emergency spillway.

President Mourdock: I don't think I've ever heard that said in this meeting before. That there would actually...it would take an event in excess of a 100 year storm to utilize the spillway.

Bill Jeffers: There have been plans presented to you that would have stored a 100 year storm. The one on Old State Road that was turned down--

President Mourdock: Well, the point is --

Bill Jeffers: --by Scott School.

President Mourdock: Yeah, the point is, we don't get many of them.

Bill Jeffers: It doesn't frequently happen, but this one would store a storm in excess of a 100 year event and still only discharge 17.5 cubic feet at the southwest corner of the development, but then water would start coming out of the spillway when a storm more intense than the 100 year storm could cause it to come out the spillway. The only problems I see with this subdivision plan, as a preliminary plan at this time, is there is a pipe on Mr. Merle's property that is too small to handle the runoff that currently goes through it during a 25 year storm...or during, yeah, during a 10 year storm. It can't handle the 17.5 cubic feet of a 10 year storm, so it represents an off-site restriction. I understand that the developer and Mr. Merle have discussed this and they will have a resolution to the problem proposed before the final plan comes in. There's another bridge downstream on Mr. McCutchan's property that appears to be too small too, but it hasn't been studied. I believe that Mr. McCutchan explained all that when he came in to remonstrate against Eagle Crossing, and we went out and looked at it and that bridge was a little bit too small too, but it doesn't pose a danger to any habitations or dwellings. So, the Vanderburgh County Surveyor has received sufficient details and data from Sitecon, who is

represented here tonight by Keith Poff, who designed this project. Everything is in accordance with the Vanderburgh County drainage ordinance, and the Vanderburgh County Surveyor does recommend approval of the preliminary plan for Breckenridge Subdivision.

President Mourdock: Okay, thank you, Bill. Anyone in the audience wishing to address the issue of Breckenridge Subdivision preliminary plan? Again, we need to have you state your name and address please.

Tim Klingler: Thank you, Mr. Chairman. My name is Tim Klingler if the record will reflect that I am here to represent Mr. and Mrs. Alfred Klingler who reside on Seib Road and have a three acre parcel of property there. We have several specific questions we would like to pose to the developers this evening concerning drainage of interest not only to Mr. and Mrs. Klingler, but to other contiguous landowners. Which one of you is Mr. Poff?

Keith Poff: I am.

Tim Klingler: Tim Klingler, glad to meet you. Mr. Chairman, I'm not really familiar with the protocol here. Can I address Mr. Poff directly, is that acceptable?

President Mourdock: Sure, the only game rule is when he addresses your questions, he needs to come to the microphone as well.

Tim Klingler: Okay, very good. Mr. Poff, as you're probably aware, the drainage, the natural drainage flow from my parent's property and the contiguous property is toward this area that you intend to develop. We're wondering, that natural drainage plain, is that going to be interrupted in any way or molested in any way by the development that you're proposing? This is their property here.

Keith Poff: Yes, I'm familiar with the location. My name is--

President Mourdock: We can't see where he is pointing. Where about is this property you're speaking of?

Commissioner Jerrel: It's right here.

President Mourdock: Oh, okay.

Tim Klingler: It's 11700 for the record, Mr. Chairman.

Keith Poff: I don't believe you've had an opportunity to even look at the drainage plan, but there is a couple copies there if you would like to take a look. On the east side of the property we are going to be providing an area inlet at each of the two valley locations in order to accept flow from those areas. That pipe is sized to carry a 25 year flow into that and through the concrete pipe system to our lake. We are not stopping the water. We are, as a matter of fact, we are accepting that water into our system and carrying it through to our lake. We are taking your water because there is a ridge that divides, so we are accepting significant portions of those properties as well.

Commissioner Jerrel: Does this one show it better?

President Mourdock: This one?

Commissioner Jerrel: The blue...would you want to...Mr. Klingler--

Tim Klingler: If I may approach.

Commissioner Jerrel: I think what he was showing then is here is your parents, right there. This is the flow of the water to this--

President Mourdock: To the west.

Commissioner Jerrel: --it's flowing away from--

Tim Klingler: Is the drainage going to be accomplished via subcutaneous piping? Is that what--

Commissioner Jerrel: To there.

Keith Poff: That's correct, reinforced concrete piping.

Commissioner Jerrel: To there.

Keith Poff: If I may, this is the map that we prepared in the report that is the existing conditions. As you can tell, the boundary of the subdivision is this north-south line here. The top of the ridge, or the watershed that we're responsible for includes the majority of that ridge top. We are responsible from the top down, so we are accepting that water in its current state, the amount of impervious area that you have there, and it's coming into our system.

Tim Klingler: As I understand the drainage now, it doesn't all necessarily go into that one area to be serviced by this pipe. Will the--

Keith Poff: We have two pipes.

Tim Klingler: --the development...it will be developed in such a way that all the water will be channeled to this pipe because now, I think, the water goes off the entire contiguous border?

Keith Poff: This is a ridge here. This is a fairly well defined channel there, and here as well. We will be placing what is an area inlet, which is a point collection system. We will also have intercepting swales that will be very slight, as slight as we can make them along the edge of the property. We have no opportunity to work outside their property of course intercepting ditches there to bring to those point collectors.

President Mourdock: Is it correct to say, Mr. Poff, that given the topography in this area the structures that you'll be putting in here are not going to cause any water to back up on the Klingler property but, in fact, will just help get that water off and move it--

Keith Poff: We are providing additional collection.

President Mourdock: Right.

Tim Klingler: If I may inquire, Mr. Poff, contiguous to my parent's property is Mr. and Mrs. Miller. Will they be serviced by this pipe also?

President Mourdock: (Inaudible) looking at the way the drainage is.

Tim Klingler: How will their property drain?

Keith Poff: It will continue in the natural state. We don't have the opportunity to offer anything past the boundary lines, so we will be accepting flow from any ridge top into an intercept swale and be taken through to this inlet or they'll actually pass between the houses to our street, which is in essence a collection system as well.

Tim Klingler: Alright, so that would encompass the Miller property located here?

Keith Poff: Whatever is defined by the natural ridge. There are some portions of those properties which fall toward Seib Road.

Tim Klingler: Right, and there's drainage in that direction as well.

Keith Poff: We are allowing everything to come through that currently does.

Commissioner Tuley: If it crosses your ridge you're going to take it, is what you're saying? If it crosses the ridge you are going to take it?

Keith Poff: Yes, anything intended west will continue to go west.

Tim Klingler: This is sufficient for a 25 year storm?

Keith Poff: The pipes are, yes.

Tim Klingler: Okay, alright. Mr. Chairman, I simply don't know the jurisdiction of the Board, do you take up sewer matters as well or just the drainage?

President Mourdock: No, just the drainage.

Tim Klingler: Okay.

Keith Poff: If I may, there is going to be an extension of the public sanitary sewer main throughout the subdivision. (Inaudible)

Tim Klingler: Will that be available to the adjoining landowners? Do you know?

Keith Poff: No, not specifically. The sewer is being planned within the street right-of-way, so, it is going to be, I'm afraid, one lot away. I believe we can expect the Utility Department to ask for some easements for the extensions of the lines to be available. That hasn't been formally requested yet. Normally that is their procedure. They ask that there be some easements to allow future extensions.

Tim Klingler: Okay, in the event that this property, my parent's property, is subdivided because they could tap into a sewer making it devisable--

Keith Poff: Yes.

Tim Klingler: Is the storm drainage system proposed here adequate for that as well?

Keith Poff: No, you have to provide your own. There will be a storm water detention requirement for that development as well and, of course, will have to occur on that property.

Tim Klingler: Right.

President Mourdock: Let me rephrase the question I think he's asking. If that property gets subdivided, is what you're doing on this property in any way going to cause them a barrier to subdivide that property?

Tim Klingler: Yes, sir.

Keith Poff: We have designed for a 10 year storm coming from that property today. If you develop that property, you're responsible for a 25 year post development retained to a 10 year pre development. So, there will be a detention requirement on that property.

Tim Klingler: Okay.

President Mourdock: That's true regardless whether you did anything on this property or not.

Keith Poff: No matter where you're at. At the edge of the property, you have to be responsible for your water.

Tim Klingler: If I could have just a moment.

President Mourdock: Sure.

Tim Klingler: That's all I have, Mr. Chairman. Some of the other landowners may well have comments for the Board. Thank you for your time.

President Mourdock: Sure, okay, you're welcome. Very good questions. Anyone else wishing to address the Board regarding Breckenridge Residential Sub? Okay, seeing no one else, oh, seeing one other, please.

Frankie Niedhammer: Frankie Niedhammer, I live on Boonville-New Harmony Road at the very top of the hill. I'm wondering about the runoff at the northeast corner towards Vera McCutchan's property. She's in Florida. I know a lot of water comes off of there because I'm right here. This runs this way.

Keith Poff: There is a ridge that runs approximately from the southeast corner of your property and goes across, and I believe it connects into the Millers, James Miller's property.

Frankie Niedhammer: Yeah, right here.

Keith Poff: We will be making improvements to our roadway such that this hill will be taken down. We will be collecting all of the water from there in our street, and take it to a set of inlets at this location here. So, we will be accepting everything that is above our street position.

Frankie Niedhammer: Okay, then where will it go from here?

Keith Poff: Would you like to step up here?

Frankie Niedhammer: Okay, you've got a map.

President Mourdock: Keith, if you want to, you can stay here. Just I want you to use the microphone.

Keith Poff: Let me turn it the other way around.

Frankie Niedhammer: We don't have all that--

Keith Poff: That you realize, north is up.

Frankie Niedhammer: Yes.

Keith Poff: The blue line represents a storm pipe system to be collected here and brought to the lake from a very, very extensive system there. There are five systems that feed to that.

Frankie Niedhammer: This is going to be one here.

Keith Poff: That's the same...we have a ridge top here in the same situation. We would be collecting everything from this by our street and bring it into the lake.

Frankie Niedhammer: Okay.

Keith Poff: We are actually collecting some areas that normally would go in a different direction. Areas one and two that would drain down through the Hornet's Nest ditch and through a pipe through this neighbor. We are bringing the majority of those captured by our street into that lake.

Frankie Niedhammer: Into the pond to make sure it's full, more or less?

Keith Poff: It probably will not fill very often.

Frankie Niedhammer: It holds enough the way it is. I was going to mark on mine a second, but that's going to come from here, and come down this way, and then down through here?

Keith Poff: It follows these easements, drainage easements, then to our system.

Frankie Niedhammer: Oh, okay. I watched that water run in all directions. Thank you.

President Mourdock: We can appreciate that, you're welcome. Anyone

else wishing to address this plan? Okay, seeing no one else, Board is there a motion? Oops, one other person.

Rosemary Ritchie: I'm Rosemary Ritchie. I live across from where the proposed road is going to be. It's got POB, what does that mean.

President Mourdock: Place of beginning. That's simply a term from the Surveyor. It means place of beginning. That's where they started a survey course that might have described your property lot or some other property.

Rosemary Ritchie: That was the only one that had that POB on there, and I wondered what that was.

Commissioner Jerrel: That's a good point.

Rosemary Ritchie: I'm wondering what that water is going to do if it comes down that road? Our driveway is right there. Is that going to come across the road, and then down our driveway?

Keith Poff: The water from...?

Rosemary Ritchie: This road here.

Keith Poff: No, we are taking all the flow from the edge of the existing roadway, it will be headed south. We'll be collecting the water that comes off of this natural ridge. It'll be coming across and it will actually turn to here into where we'll be setting inlets and will be going back into the lake.

Rosemary Ritchie: I hope so. I hope it's not like the Lloyd.

Commissioner Tuley: So do we.

President Mourdock: Well, we hope not either, that's why we all support your button back there that says "assume nothing", by the way. Okay, anyone else to speak to this plan? Is there a motion from the Board on the recommendation of the County Surveyor's Office for the preliminary approval of Breckenridge Residential Sub?

Commissioner Jerrel: I'll move approval of the Breckenridge Residential Sub, preliminary.

Commissioner Tuley: Second.

President Mourdock: So ordered. Very good questions there, thank you. Charlene, do we need those for the record?

Charlene Timmons: (Inaudible)

President Mourdock: It doesn't matter?

Tim Klingler: Thank you.

President Mourdock: You're welcome. I appreciate your patience.

Bluegrass Farms

Bill Jeffers: I had one more small subdivision that I neglected to include on the agenda, but all the remonstrators have been addressed on this. It's Mr. Leo Schultheis' subdivision. Which is a--

President Mourdock: Is that the one off Bluegrass?

Bill Jeffers: Yeah, off Bluegrass. It's like a one lot subdivision that was previously five lots. It has that one cul-de-sac. The only thing that we required of him after the preliminary hearing was to come back with details of the little eroded gullies that came off of his property and went through Mr. John Wasson's property. Mr. Wasson was concerned about the erosion that he wanted to fix, and did Mr. Schultheis' plan gather all the water and put it into the cul-de-sac, and take it down to the inlets and across the street where it discharged into a creek south of Mr. Wasson's property. What happened was the lady who was handling this left Morley & Associates and went to a different job and had delivered this to my desk before she resigned. It's been sitting there for a month or so, and Mr. Schultheis called me and reminded me that I hadn't brought it to you yet. What Jennifer did was, she went out with her survey crew and she identified all the points that I asked her to show that the water is gathered into the cul-de-sac area and taken down and discharged into this pipe.

President Mourdock: Did I hear you say, Bill, that all the remonstrators who were here previously, Mr. Wasson, and some of the others, are all accepting of this?

Bill Jeffers: Mr. Wasson was satisfied with what he heard at the last Drainage Board meeting, apparently, as well as the actions in front of the Area Plan Commission. Mr. Morley told me that he and Mr. Schultheis had come to an understanding, that, you know, basically that the remonstrants had gone away.

President Mourdock: The only question I have, and I just don't want to get us procedurally in a crack here. Before we would act on this to accept this as the final plan, do we need to do anything notice wise to make sure those folks have some chance to debate on that?

Joe Harrison, Jr.: Typically, they aren't notified of the final hearing anyway on any of these.

President Mourdock: Oh, is that right? I thought they did give them--

Bill Jeffers: They're not...they're not notified of the final hearing. Neither Mr. Wasson, nor the other fellow, Mr. Don Mills, has called me in several months. However, I was out of town for a week and I was sick in and out of the office half days and stuff last week. If you feel uncomfortable about it...I just promised that I would bring it before you. So, if you feel uncomfortable about it and want those people notified, Mr. Schultheis will only be angry at me, and not you or the Morleys.

President Mourdock: I'm used to having people angry at me. I just

want to make sure--

Commissioner Tuley: (Inaudible) salary, doesn't it?

President Mourdock: Yeah, that's right! It's a fringe, it's a benefit.

Bill Jeffers: I'm giving you an out. I mean, if you feel uncomfortable about it, I will call Mr. Wasson.

President Mourdock: If we don't normally...Joe, do you have a comment one way or the other?

Joe Harrison, Jr.: I doubt if these people who were here tonight on some of these finals were just aware that it was coming up. They may have called your office or something, but they did not get notice. They would have been notified of the preliminary hearing and they were notified of the Area Plan and Mr. Schultheis attended the Area Plan Commission meeting what...in January or December?

Bill Jeffers: December or January.

Joe Harrison, Jr.: Whatever it was.

President Mourdock: The long and short of it is, our technical advisor is recommending approval.

Bill Jeffers: Right.

Commissioner Jerrel: Well, I'll move approval of the Schultheis one lot subdivision, final approval.

Bill Jeffers: We have like for example, we have two ladies that call us every month to see if the McJohnston Place has come back.

President Mourdock: Okay, there is a motion and a second, I'll say so ordered. Okay, we're in the homestretch, I think.

Bill Jeffers: I've lost my agenda, what's next?

1998 annual report - Specifications & Invitations to bid on regulated drains

President Mourdock: The 1998 annual report. Specs and invitation to bid on the Vanderburgh County regulated drains.

Bill Jeffers: I certainly hope I've got the president right. Who is the president today?

President Mourdock: I am.

Commissioner Jerrel: He is.

Bill Jeffers: Good.

Commissioner Tuley: Well, you knew who it wasn't!

Bill Jeffers: Are you still in the Area Plan Commission?

Commissioner Tuley: I'm not still, this is my first year back

after, what...two years?

President Mourdock: Yeah, I was on it for two.

Commissioner Tuley: Everybody cringes, I don't mind that.

President Mourdock: I don't mind it. I liked it.

Bill Jeffers: This used to be a joke. I guess, anymore, it isn't.

President Mourdock: No laughing matter?

Bill Jeffers: I mean, the minority member, that's what he got.

Commissioner Tuley: You got it one year, maybe not by choice, but you volunteered for the second year.

President Mourdock: Right, yeah.

Commissioner Tuley: I volunteered for this year.

Bill Jeffers: Things change.

President Mourdock: I like it because it meets in the evenings.

Commissioner Tuley: I get to deal with Kight next week.

President Mourdock: Oh!

Bill Jeffers: Okay, that's the Surveyor's annual report to the Drainage Board members notifying them of the general condition of all regulated drains in Vanderburgh County, with some specific references to problem areas. It's the same as last year, updated. All I would ask you to do is move that you received them, I suppose.

Commissioner Jerrel: I'll move acceptance of the Surveyor's annual report.

Commissioner Tuley: Second.

President Mourdock: So ordered. I see we need to sign this. Is this the original? Bill, is this the original for signature or can I use any of them as the original?

Bill Jeffers: Just use one for the original.

President Mourdock: Alright.

Bill Jeffers: Put your signatures on there, and give that one to Charlene, I suppose.

Charlene Timmons: I need the one signed by the Surveyor.

President Mourdock: That's a good point. This one is not.

Bill Jeffers: I'll sign the original. Okay, and then the second item is the general specifications, which basically are the same as they have been for several years. That just gives general

descriptions of the work we are asking the contractors to bid on and perform.

President Mourdock: Again, do you need a motion of acceptance or are we just taking these under advisement?

Bill Jeffers: We can do all these at once.

Commissioner Jerrel: That's signed.

Bill Jeffers: This one is signed.

President Mourdock: Did Pat get that?

Commissioner Jerrel: Pat signed it.

Commissioner Tuley: I signed one.

President Mourdock: Brenner needs...or you need to sign that one then.

Bill Jeffers: These are general specifications. They've remained pretty much the same over the past several years.

Commissioner Jerrel: Do you want a motion accepting the maintenance of regulated drains and 1998 specifications?

President Mourdock: Sure, I'd take that.

Bill Jeffers: Okay, you can take that.

Commissioner Tuley: I'm sorry, that was a motion, I'll second.

President Mourdock: So ordered.

Commissioner Tuley: I thought it was a question.

Bill Jeffers: This is called section SP-200, which SP stands for special, 200 is just a number I picked because it's above 100, which was the number of the first section. It just gives real basic instructions to bidders of what the outside of their envelope should look like and then it gives them all different descriptions of all the special maintenance needs for the ditches along with what we call a schedule, where all they have to do is fill in the blanks, and attach that to the schedule to the Form 96 when they submit their bids.

President Mourdock: Do you have a copy marked where we need to sign that one then?

Bill Jeffers: You don't have to sign that, this is just...giving it to you, showing you what we're sending out in our package to prospective bidders, along with these, this is the last thing I'm going to give you, or next to the last thing, the special provision section, which describes why, you know, what the need is in each one of these ditches Aiken Ditch, Eagle Slough, East Side Urban, Harper Ditch, etc. We're naming the ditches that have special problems that need to be addressed. Those problems are, detailed in this special section and then after they read what the problems

are, then they go to this, which is called section SP-200, and they fill in the blanks what they are willing to bid on it.

President Mourdock: Alright, is there a motion then for the issuance for the invitation to bid for the annual ditch and regulated drain work section SP-200, and the attachment of special provisions?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: Okay, the last thing you need to do is sign the invitation to bid.

President Mourdock: Didn't we do that one already?

Commissioner Jerrel: Uh-uh, he hasn't given it to us.

President Mourdock: Oh, that was the annual report that we signed.

Bill Jeffers: This is the notice to bid which will be sent by Charlene after your signature is applied to it, along with the signature of the Surveyor and the Auditor--

President Mourdock: And this is the original?

Bill Jeffers: --to both newspapers to be advertised twice. Once, hopefully this Friday, and then you wait, whatever, two weeks or a week? A week. Then it'll be advertised again in both papers, and it's notice to bidders that your Board will be receiving sealed bids until 4:30 p.m. Monday, March 23, 1998. At which time, they'll be received in the County Auditor's Office and at which time they will be brought up here to be opened after...or during the Drainage Board meeting in this hearing room.

President Mourdock: Is there such a motion then for the advertisement of notice to bid for the drainage maintenance work?

Commissioner Jerrel: I move approval of the drainage maintenance advertisement for bids.

Commissioner Tuley: Second.

President Mourdock: So ordered. Do you have an original, or again--

Bill Jeffers: Any one of those is the original.

President Mourdock: Okay, that's the original.

Bill Jeffers: If you get three signatures on that, we'll have Mr. Brenner's signature on it, and then Charlene will have the Auditor's signature on it and she can take it to the newspaper tomorrow.

President Mourdock: Okay, the next item, Report action on Heerdink/Rose petition to remove obstruction. Is that not the Rasche case?

Joe Harrison, Jr.: That is the Rasche case. Do you want me to elaborate?

Bill Jeffers: Yeah, why don't we let our counselor explain the action--

President Mourdock: I thought it was dead.

Bill Jeffers: --that he would like to take.

Joe Harrison, Jr.: Back on November--

President Mourdock: I thought they failed to meet the date.

Joe Harrison, Jr.: You each get a copy of this. He's got a copy. On November 10th, we received a decision with respect to the lawsuit. What I'll do is read the order that I prepared.

"Thomas and Rose Heerdink and William and Wilma Rose filed a joint petition with this Board on August 26, 1996, concerning an alleged drainage obstruction in a ditch located at 20 West Mill Road in Evansville, Indiana. That property being owned by Catherine A. Rasche. A hearing was conducted by this Board on November 25, 1996. At the conclusion of the hearing, this Board held that respondent, Catherine Rasche, intentionally caused the obstruction of the ditch, and ordered that respondent, Catherine Rasche, remove the obstruction at her own expense. On December 23, 1996, respondent filed a Verified Petition for Judicial Review; Complaint for Declaratory Judgement and Inverse Condemnation against the Board and the Board of Commissioners of Vanderburgh County, in the Vanderburgh Superior Court. Thereafter, the cause was venued to the Gibson Circuit Court. On May 2, 1997, respondent, Catherine Rasche, filed an Amended Verified Complaint for Judicial Review; Complaint of Declaratory Judgement and Inverse Condemnation with the Gibson Circuit Court. A trial was held by the Gibson Circuit Court on August 6, 1997. Thereafter, after considering the arguments of counsel for the parties along with the filed briefs, proposed findings of fact, and conclusions of law, the Gibson Circuit Court affirmed the November 25, 1996 order of the Board and entered judgement in favor of the County and against the respondent, Catherine Rasche, on her amended complaint. Further, the Gibson Circuit Court remanded this matter to the Board for further proceedings in view of such judgement. A copy of the Gibson Circuit Court's decision of November 10, 1997 is attached hereto as Exhibit "A". Accordingly, as previously ordered by this Board, respondent is hereby directed to remove the obstruction from the ditch at her own expense".

Next paragraph:

"If the obstruction is not removed by respondent within 45 days from the date of this order, respondent is hereby notified to appear before this Board on April 27, 1998 at 6:00 p.m. in Room 307 of the Civic Center Complex, Evansville, Indiana 47708 regarding further action to be considered by the Board in connection with this matter Dated this 23rd day of February, 1998."

Distribution of this order if you are so inclined to sign the same would go to Catherine Rasche's counsel in the case who may or may not still be representing her, to Thomas and Rose Heerdink, William and Wilma Rose, and Catherine A. Rasche, in case she is still not represented by Mr. Shively. The previous order did not state a time frame within which Catherine Rasche had to remove the obstruction. Therefore, I put in here that it should be removed within 45 days, but if it's not removed then she is notified of this matter being considered by the Board on April 27, 1998 for further consideration. Mr. Jeffers believes that 45 days is a reasonable time within which to have the obstruction removed, if it hasn't already been removed. I'm not aware that it's been removed. I don't know if Mr. Jeffers has looked.

Bill Jeffers: As late as this afternoon at 4:30 it still existed.

Joe Harrison, Jr.: Okay.

Bill Jeffers: That should be sufficient, if not to totally remove it, at least to show some effort to implement a plan to remove it. To get started.

Joe Harrison, Jr.: We will mail this out. If the Board decides to sign this order, we'll mail it out by certified mail to all those who need to get a copy of it. I do have the original.

President Mourdock: As a practical matter, we have no choice. Is that not correct? I mean, the process of law has worked--

Joe Harrison, Jr.: Right.

President Mourdock: --it back to the Drainage Board.

Joe Harrison, Jr.: The only thing is that there was not a time frame set before and there still really isn't a time frame other than we want to hear...we want to see...the order has a progress date for the most part, April 27th, that it should be removed by that time, if it's not, she's notified that there's going to be a discussion at this Drainage Board meeting on that date regarding this matter.

President Mourdock: Okay, is there a motion then for the signing by the Board of that letter and mailing of the letter to Ms. Rasche?

Commissioner Jerrel: Yes, I move that we approve the order regarding the petition of Thomas and Rose Heerdink, and William and Wilma Rose.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Report/Action on John Irwin Petition to remove an obstruction

Bill Jeffers: I thought it was only fair to give you a report on the Irwin matter, likewise. We haven't had but two days in a row that it didn't...there either wasn't snow lying on the ground, or we had rain. So, we have not accomplished anything on that. However, if the weather continues to be agreeable, I expect we'll be out there later this week or the first of next week to proceed with removing that obstruction with our own forces from the County Surveyor's Office. If there are no questions on that, the last item is, we believe, this to be the last claims.

President Mourdock: Excuse me, Bill, one quick question before the last claims. Refresh my memory. If we are going to use the Surveyor's Office, the Surveyor's resources, to take care of the Irwin problem, have we considered that for the Rasche situation, or is that inappropriate?

Joe Harrison, Jr.: That may be a consideration after--

Commissioner Tuley: The 45 days are up.

Joe Harrison, Jr.: Yeah, after April 27th. She was ordered to remove it at her own expense.

President Mourdock: Okay, very good. I'm sorry if I missed that comment earlier.

Blue Claims

President Mourdock: Okay, go ahead, Bill. The last of the blue claims you said.

Bill Jeffers: I hope this is the last of the blue claims for this year, unless we've missed one. These are claims for maintenance that was completed in 1997, and inspected after the first of the year with the necessary paperwork from the inspectors and from the Surveyor declaring that the work was finished in accordance with the specifications and the recommendation they be signed and paid.

President Mourdock: Is there a motion to sign the blue claims as recommended by the County Surveyor's Office?

Commissioner Tuley: So moved.

Bill Jeffers: You guys are still signing the ones from the first meeting.

Commissioner Tuley: Yeah.

President Mourdock: We need a second.

Commissioner Jerrel: Yeah, I'll second.

President Mourdock: So ordered. Any other business before the Board this evening? Is there a motion for adjournment?

Commissioner Tuley: So moved.

Commissioner Jerrel: So moved.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Meeting adjourned at 8:45 p.m.

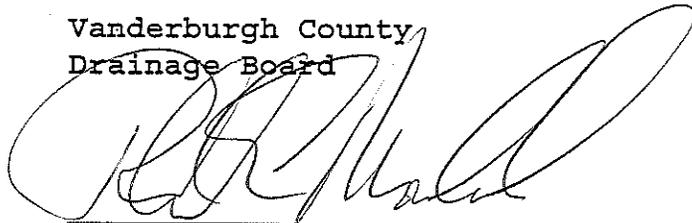
Vanderburgh County
Drainage board
February 23, 1998

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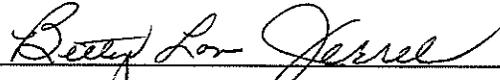
Those in attendance

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
Tim Klingler
Frankie Niedhammer
Rosemary Ritchie
Keith Poff
Others unidentified
Members of the media

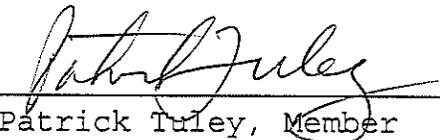
Vanderburgh County
Drainage Board



Richard E. Mourdock, President



Bettye Lou Jerrel, Vice President



Patrick Tuley, Member

Vanderburgh County Drainage Board
AGENDA
23 February 1998

FINAL

- I. Approve minutes of previous meetings:
 - a. 26 January 1998
 - b. 02 February 1998

- II. Subdivision Drainage Plans:
 - a. Harmony Hollows (Residential) Sub. Preliminary
 - b. Waterford Park (Commercial) Subdivision:
 - 1. Lots 4B1 & 4B2 Final
 - 2. Lots 4B3, 4B4, 4B5 Preliminary
 - c. Corressell Court (Commercial) Sub. Final
 - d. Winstead Place (Residential) Sub. Final
 - e. Carneal Commercial Sub. Section II Final
 - f. Breckenridge (Residential) Sub. Preliminary

- III. Receive 1998 Annual Report, Specifications & Invitation to Bid On Vanderburgh County Regulated Drains

- IV. Report/Action on Heerdink/Rose Petition to Remove Obstruction

- V. Report/Action on Irwin Petition to Remove an Obstruction

- VI. Receive Claims & Recommendation to Pay Contractors

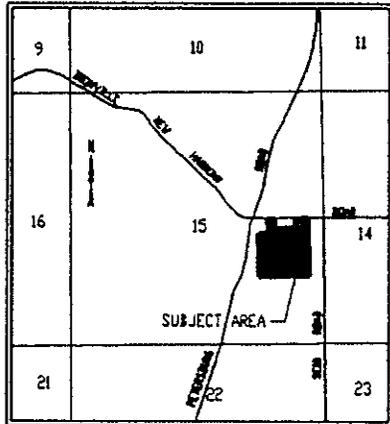
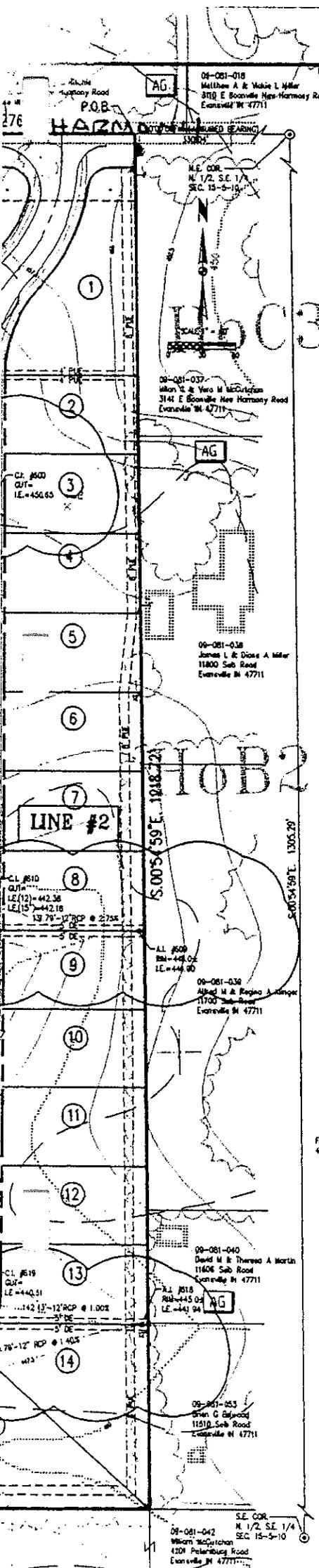
- VII. Other Business

**VANDEBURGH COUNTY
DRAINAGE BOARD MEETING
FEBRUARY 23, 1998**

➡	Printed Name	Affiliation
1.	REGINA KLINGLER	BRECKENRIDGE SUB.
2.	Tim KUNZEL	"
3.	Alfred Klingler	"
4.	JACK MERLE	"
5.	JERRY LAMB	WINSTON PLACE SUB
6.	Rosemary Ritchie	BRECKENRIDGE SUB
7.	FRANKIE WEDHAMMER	BRECKENRIDGE SUB
8.	JAMES L. MILLER	BRECKENRIDGE SUB
9.	DIANE A. MILLER	" "
10.	MATTHEW A. MILLER	" "
11.	Jeff H. CARNEAL	CARNEAL
12.	- Timothy J. KEMPF	" "
13.	KEITH POFF	SITE CON, INC.
14.	ANNETTE EELDERS	BRECKENRIDGE
15.	John Elpers	"
16.	- Jimmy WINTER	"
17.	David Schminke	Morley & Assoc., Inc.

Daryl Helfert

Morley & Assoc., Inc.



LOCATION MAP
SCALE: 1" = 2000'

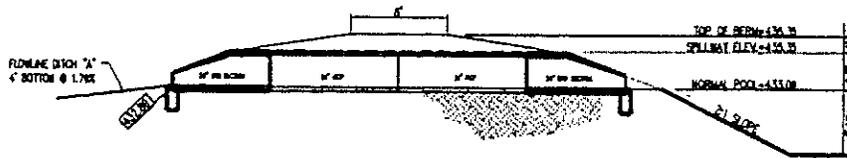
GENERAL NOTES

GENERAL SITE

- Flood Plain Data:** A portion of this property lies within the 100 year flood zone (Zone A) as said property plots by scale on the Flood Insurance Rate Map (FIRM) Community Panel 180256 0025 C, dated August 5, 1991.
- Contours:** Contours and topographical data were taken from Vanderburgh County Topographic Maps (about 190 March 27, 1990).

STORM SEWERS

- STORM DRAINAGE SYSTEM TO BE IN TEMPORARY SERVICE FOR SITE DRAINAGE DURING CONSTRUCTION AND MUST BE CLEANED BEFORE CONSIDERATION FOR MAINTENANCE ACCEPTANCE.
- PRODUCT CERTIFICATIONS OR REPORTS ARE TO BE OBTAINED BY THE CONTRACTOR FROM THE CONCRETE SUPPLIER AND MADE AVAILABLE TO THE COUNTY HIGHWAY ENGINEER'S INSPECTOR OR OFFICE.
- ALL STORM SEWERS SHALL BE CONSTRUCTED IN ACCORDANCE WITH ASTM C 76-79.
- STORM SEWER PIPE SHALL CONFORM TO RCP CLASS III WITH O-RING RUBBER CASSET JOINTS. RUBBER GASKETS SHALL CONFORM TO ASTM C 473-79.
- ALL LENGTHS OF RCP STORM SEWER TERMINATING OR BEGINNING WITH CONCRETE END SECTIONS REFER TO THE DISTANCE FROM THE CENTERLINE OF STRUCTURE TO THE FLOWLINE OF THE CONCRETE END SECTION.



OUTLET DETAIL
A.T.S.



DITCH "A"
A.T.S.

Without direction or consent of the engineer, the contractor shall not be responsible for any changes or modifications to the plan and SPECIFICATIONS, and must be notified of any variations from the dimensions and conditions shown by these sheets.

SITECON, Inc.
Engineers-Surveyors

600 S.E. Eighth Street Suite 2
Evansville, Indiana 47713
(612) 423-2320

Project: **BRECKENRIDGE**

Sheet Title: **DRAINAGE PLAN**

Revisions	Date	By	Description

Scale: 1" = 60'

Designed By: J.P.	Job Number: 108-97-5
Drawn By: MBG	Date: 2-15-97
Checked By: J.P.	Reference: SUBPLAT.DWG

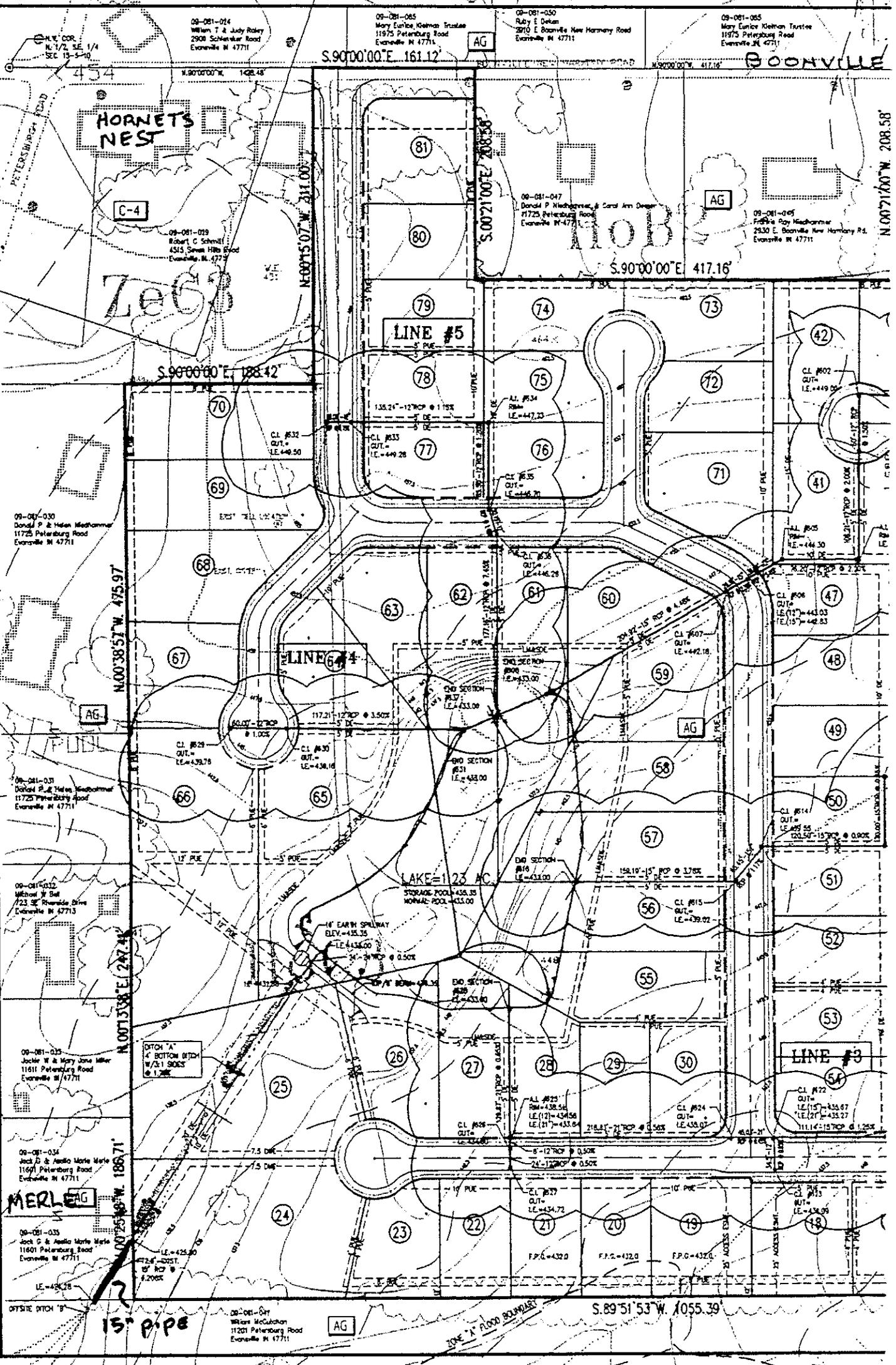
Sheet Number: **DR-1**

SE. COR.
N 1/2 SE 1/4
SEC. 15-5-10
09-081-042
William McCutchan
4301 Petersburg Road
Evansville, IN 47711

PETERSBURG RD

BOONVILLE

N. 0071607' W. 208.58'



09-081-024
William T & Judy Raley
2908 Schenker Road
Evanville IN 47711

09-081-085
Mary Eunice Keenan Trustee
11975 Petersburg Road
Evanville IN 47711

09-081-050
RUBY E Deaton
2910 E Boonville New Harmony Road
Evanville IN 47711

09-081-029
Robert C Schmitt
4515 Seven Hills Road
Evanville IN 47711

09-081-047
Donald P. Niedhammer, Jr. Carol Ann Deener
11725 Petersburg Road
Evanville IN 47711

09-081-045
Freddie Ray Macdonald
2530 E. Boonville New Harmony Rd.
Evanville IN 47711

09-081-030
Donald P. & Helen Macdonald
11725 Petersburg Road
Evanville IN 47711

09-081-031
Donald P. & Helen Macdonald
11725 Petersburg Road
Evanville IN 47711

09-081-032
Michael J. Bell
233 E. Riverside Drive
Evanville IN 47715

09-081-035
Jackie W & Mary Jane Miller
11611 Petersburg Road
Evanville IN 47711

09-081-034
Jack D & Alesia Marie Merte
11601 Petersburg Road
Evanville IN 47711

09-081-033
Jack D & Alesia Marie Merte
11601 Petersburg Road
Evanville IN 47711

09-081-047
Wilma McCulchan
11201 Petersburg Road
Evanville IN 47711

MERLE

15" PIPE

ZONE 7' FLOOD BOUNDARY

LINE #5

LINE #4

LINE #3

LAKE = 1.23 AC

HORNETS NEST

MOB

AG

AG

AG

AG

AG

AG

N. 1/2 COR. N. 1/2, SE. 1/4 SEC. 13-5-10

S. 90°00'00"E. 161.12'

N. 80°00'00"W. 128.48'

S. 90°00'00"E. 417.16'

N. 80°00'00"W. 417.16'

S. 90°00'00"E. 161.12'

N. 80°00'00"W. 128.48'

S. 90°00'00"E. 417.16'

N. 0071607' W. 208.58'

N. 0071607' W. 211.00'

S. 0021007' E. 208.58'

S. 90°00'00"E. 128.42'

N. 0071607' W. 475.97'

S. 90°00'00"E. 128.42'

N. 0071607' W. 475.97'

S. 90°00'00"E. 128.42'

N. 0071607' W. 208.58'

N. 0071607' W. 475.97'

S. 90°00'00"E. 128.42'

OFFSHORE DITCH 18"

S. 89°51'53" W. 1055.39'

*Robert W. Brenner
Vanderburgh County Surveyor
Room 325 Civic Center
Evansville, Indiana
812-435-5210*

Surveyor's Annual Report
On the Condition of Regulated Drains in Vanderburgh County, Indiana

February 23, 1998

The overall condition of the regulated drains in Vanderburgh County, Indiana is very good. There are specific, isolated problems in some of the thirty (30) individual ditches that make up the total (approximate) eighty (80) miles of Vanderburgh County's regulated drains.

This report will note existing conditions that constitute special problems to be addressed by specific work other than "normal" annual ditch maintenance. "Normal" annual ditch maintenance is accomplished by herbicide applications and mechanical mowing, and will not be addressed by this report.

The annual ditch maintenance specifications are presented with this report by the Surveyor to the Board at the 1998 February board meeting. The special provisions section of the 1998 ditch specifications will detail the work necessary to correct problems identified in this report.

Certain existing conditions identified by this report may not be accomplished in 1998 due to: (1) lack of adequate funds, (2) failure of qualified bidders to respond to invitations to accomplish the work, (3) extended periods of high water, or (4) adverse weather conditions, all as in previous years.

Additional ditch problems may be identified as they occur, are reported to, or are discovered by the Surveyor throughout the year. Additional specifications and bid documents will address newly discovered conditions as time allows. The Surveyor will recommend the Board seek bidders to perform corrective work when conditions warrant "emergency" and/or additional contractual work.

The remainder of this report will address the condition of the ditches either individually by ditch, or grouped into systems of drains as in the case of East Side Urban.

AIKEN DITCH:

Private drive culvert crossings into Pollack Avenue residences restrict flow through ditch. Some residents do not keep culverts clear. All culverts are too small. County Highway guardrail restricts mowing operations, and side banks along Pollack Avenue are very steep. Remedies require coordination and cooperation not yet established between private property owners, county highway department, and county surveyor's office.

Carneal Commercial Subdivision drainage plan requires accumulated silt to be removed from Aiken Ditch and possibly the removal of certain pipes placed by individuals without permission of the Board. The developer of the subdivision is paying for the plans describing the work required, and is willing to pay for a part of the cost of the work. The Board may be asked to participate in some of the costs.

BAEHL DITCH:

Very good condition. Excellent annual herbicide applications have developed grass cover and stabilized ditch banks.

BARNETT DITCH:

Silt due to annual flooding by Ohio River removed 1996. Ditch in excellent condition.

BARR'S CREEK:

Condition continues to improve as land owners work with Soil Conservation District and Big Creek Drainage Association on a variety of projects to repair and stabilize waterway. Projects to continue current program depend upon annual availability of funds.

Channel between Baseline Road and Heppler Road should be stabilized by installation of tire mats as accomplished on Maidlow Ditch.

BUENTE UPPER BIG CREEK:

Condition remains stable with annual improvements made by individual landowners and Big Creek Drainage Association. Annual application of

broadleaf herbicides has established beneficial grass cover along majority of waterway. Isolated brush removal required.

The Union Township Ditches:

1. Barnett Ditch
1. Cypress Dale Maddox Ditch
2. Edmond Ditch
3. Helfrich Happe Ditch
4. Kamp Ditch

All waterways in very good shape. Surveyor and property owners continue to monitor individual ditches for silt accumulation due to annual Ohio River flooding.

Silt dipping projects are assigned to individual ditches in a five (5) year rotation. Kamp Ditch, for example, was dipped out in 1995; Barnett Ditch in 1996.

Inspection of all Union Township ditches is required Spring 1998 to determine effects of prolonged standing flood water during 1996 and 1997.

Cypress Dale Maddox Ditch was selected for silt dipping in 1997.

Union Township Ditch Association did not assign a ditch for silt dipping project in 1998.

EAGLE SLOUGH:

Declared an "Urban Drain" in 1995. Improvement projects were not completed in 1995 due to absence of responding bidders, adverse weather, and river flooding. The projects were re-bid in 1996.

Work re-bid in 1996 included brush removal, tree removal, beaver dam removal, waterway repairs near Waterworks Road, flood debris removal, broadleaf and brush killing herbicide applications, and embankment repairs.

Extended periods of high water in 1996 prevented herbicide applications along entire ditch, and prevented brush removal from Weinbach Avenue to Green River Road.

In spite of extended high water in 1997, the contractors were able to finish brush removal from Weinbach Ave. to Green River Road and apply herbicide to the entire six (6) miles of ditch.

Bids on waterway repairs by excavation were not received.

Brush, trees, beaver dams, and flood debris were removed both 1997 & 1998 with excellent results creating a clear cut swath (25) feet either side of the ditch beginning at Waterworks Road and extending upstream to Green River Road.

EAST SIDE URBAN

East Side Urban Drain system continues to be in very good shape generally due to tight control of commercial drainage planning and quality ditch maintenance by spraying and mowing contractors.

But continued intense development pressure and poor maintenance of private drain systems entering county ditches result in high volumes of silt, loose and blowing trash, construction and landscaping debris, pallets, shopping carts, and other common junk causing obstructions at isolated locations.

One particularly troublesome spot exists between the mouth of Stockfleth Ditch about 1500 feet West of Burkhardt Road thence West to Kight Home Center. When sufficient funds become available to remove obstructions from this stretch of ditch, the Surveyor will approach the Board with a special project.

The cost of regular annual maintenance exceeded or nearly exceeded annual income from ditch assessments for the past several years. Funds available for special projects to correct specific problems are not available.

The Surveyor designed 1996 & 1997 specifications to minimize East Side Urban maintenance. The Surveyor will continue his attempt to generate surplus funds. Also, commercial development is increasing ditch assessments, and the piping of Crawford Ditch along Burkhardt will reduce annual maintenance costs.

Special projects may be undertaken in 1998 if surplus funds are in existence after bidding totals are compiled.

HARPER DITCH:

Very good shape from Lloyd Expressway north to Carriage House. Some embankment stability through increased grass cover is needed in the east/west portion approaching Eastland Place. Trash and shopping carts from shopping centers continue to create obstructions.

HENRY DITCH:

Average condition. Improvements are projected to cost in excess of benefits to be derived from work like straightening the waterway from Kansas Road to Bluegrass Creek.

HOEFLING DITCH:

Good condition. Land owner cooperation required to address some needed minor embankment improvements along the upper end of ditch.

KEIL DITCH:

Very Good Condition.

KNEER DITCH

Very good condition.

KOLB DITCH:

Extensive improvements accomplished in 1995 include restoration of flow line from Covert Avenue through the downstream subdivisions and under Pollack Avenue to levee gate. Also all roadway pipes crossing Kolb Ditch were cleared of accumulated silt in 1995.

1997 inspections reveal minor problem areas not yet serious.

MAASBERG DITCH:

Good condition.

MAIDLOW DITCH:

Good condition. Some complaints of loose tires and tire fragments in lower end of Maidlow not associated with 1996 tire mat project. Source of loose tires discovered in private lateral and attributed to poor use of tires as erosion control by private land owner.

The concrete bridge abutments on Bender Road over Maidlow Ditch represent a restriction and is causing severe erosion of ditch banks downstream of ancient structure. Commissioners may wish to consider replacing bridge soon.

POND FLAT DITCH SYSTEM:

1. POND FLAT MAIN: Very good condition overall. Bank slippage continues at various locations due to the weight of the accumulated spoil at the top of the banks. Silt dipping and minor bank re-shaping is needed along the east bank south of Nisbet Station Road to Buente Upper Big Creek. Natural movement caused by freezing, thawing, and saturation during high water needs to be dressed back on a case by case basis as is done annually.

A new plan must be developed to address the area just northwest of the Bixler Road to satisfy Department of Natural Resources for permits required to complete the work. The work also requires extensive clearing and excavation, and depends on land owners' cooperation on temporary rights-of-way and access points.

2. POND FLAT LATERALS "A": Good condition. Azteca has not completed storm water detention facilities on their project. Excess storm water leaving the Azteca site will damage improvements made to Pond Flat "A" specifically accomplished so that Azteca could construct their drainage system in the first place.

3. POND FLAT LATERAL "B": Fair condition. Silt dipping along the entire length of the drain needs to be accomplished in 1998 due to surplus stormwater runoff from Azteca.

4. POND FLAT LATERAL "D" & RUSHER DITCH: Very good condition except where lack of cooperation by owners and occupants of Busler complex restrict maintenance access.

5. POND FLAT LATERAL "C": Very good condition. Some bank slippage due to frost heave may need dressing back.

As reported repeatedly for the last three years, rip rap placed under new county bridge on Outer Darmstadt Road (Mosquito Road) is holding water in a pool above the new bridge so deep that the banks are saturated and in danger of slumping into the ditch bottom.

6. POND FLAT LATERAL "E": Excellent condition.

7. SINGER DITCH: Very good condition

SONNTAG STEVENS DITCH:

Good condition from Hitch Peters upstream to point of beginning. Fair condition from Lynch Road downstream to end of ditch.

Lack of cooperation by developers and residents of Oaklynn Subdivision continues to damage waterway and prevent proper maintenance of Sonntag Stevens Ditch.

WALLENMEYER DITCH:

Very good condition except for isolated areas of light brush to be removed, and some slight embankment instability to be monitored until need for repair is determined.

NOTICE TO BIDDERS

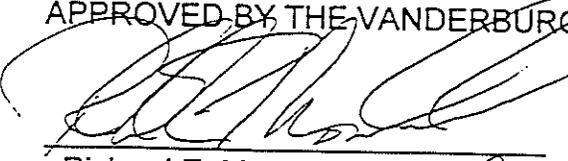
This Instrument shall serve as Public Notice that Sealed Proposals for the maintenance of Regulated Drains in Vanderburgh County, Indiana by mowing, herbicide application, excavation, brush cutting and chipping, and other related activities shall be received in Room 208 of the Civic Center by the Vanderburgh County Auditor until 4:30 P.M. local time on Monday, March 23, 1998, at which time proposals received shall be delivered to the Vanderburgh County Drainage Board, opened and read aloud in the County Commissioners' Hearing Room. Any proposal received unsealed or past the designated time shall be returned to the bidder unopened.

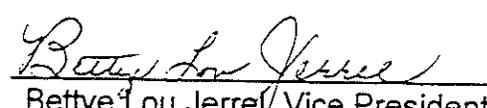
Proposals must be submitted on approved forms, properly executed, and accompanied by a Certified Check, Cashier's Check, or other approved security in the amount of five (5) percent of the total bid.

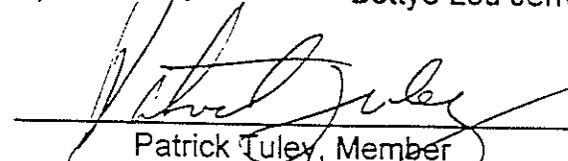
Proposals and securities shall be sealed together in an envelope bearing the name and address of the bidder, and the title of the work; and all prepared according to such particulars as shall be described in this document and in other documents available from the Vanderburgh County Surveyor; Room 325 Civic Center; One Martin Luther King, Jr. Blvd.; Evansville, Indiana, 47708; or by calling 812-435-5210, or 812-435-5117.

Improperly completed proposals may be disregarded by the Board. Successful bidders shall sign contracts with the Board within five (5) days of the award. A performance bond may be required of the Contractor by the Board. The bid bonds of the unsuccessful bidders will be returned within thirty (30) days of the awards.

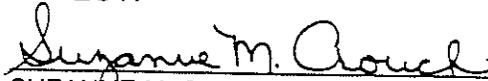
APPROVED BY THE VANDERBURGH COUNTY DRAINAGE BOARD:


Richard E. Mourdock, President


Betty Lou Jerrel, Vice President


Patrick Tuley, Member

ATTEST:


SUZANNE M. CROUCH, AUDITOR *et*

2/23/98
(DATE)

CERTIFIED:


ROBERT W. BRENNER, SURVEYOR

2/23/98
(DATE)

1998
Special Provisions Section

Drains to be Maintained Under the Special Provisions Section in 1998 are:

Aiken Ditch
Eagle Slough
East Side Urban South Half
East Side Urban North Half
Harper Ditch

Keil Ditch
Kolb Ditch
Pond Flat Main
Pond Flat Lateral "B"
Sonntag Stevens Ditch

Drains not listed above will be maintained under General Specifications in 1998.

Persons interested in bidding any ditch listed above are advised that all work performed on these ditches will be described, performed, inspected, and approved only in accordance with the conditions and requirements set out in the Special Provisions Section, unless otherwise specified in Section SP-200.

SP - 100.00 Purpose:

The purpose of the Special Provisions Section is to detail needed maintenance activities additional to those described in the Standard Specifications for Regulated Drains either affected by intense urban development or in need of specific attention and/or corrections.

SP-101.00: "SPECIAL PROVISIONS PROJECTS" MUST BE BID ACCORDING TO CONDITIONS AND REQUIREMENTS OF THIS "SP" SECTION:

For all drains and ditches listed to be maintained under Special Provisions in 1998, the Bidder must submit bids in accordance with conditions, requirements, and other information contained in the Special Provisions Section and on the Bid Schedules attached in Section SP-200.

Only those bids submitted in accordance with the Special Provisions Section will be considered for awards of contracts for work on Special Provisions Projects.

SP-102.00 SINGLE DRAINS SEPARATED INTO MULTIPLE WORK AREAS:

Individual drains will be separated into multiple work areas in order that each work area of ditch can receive specific treatments that address specific needs.

For example, a single ditch may need brush removal by mowing and chipping only along half its length; and the same ditch may require only broadleaf herbicide treatment with no mowing needed along the other half of its length.

The separation of drains into work areas will be at the direction and discretion of the Surveyor who shall determine the treatment needed to address specific existing conditions.

Separate work areas are specified and described in the Special Provisions Section, and ditch footage together with the category of treatment is specified again on the separate Bid Schedules attached in Section SP-200.

SP-103.00 MULTIPLE AWARDS ON SINGLE DRAINS:

Wherever single drains are separated into multiple work areas as described above, the Board may award the work on a single drain to one individual bidder, or to a combination of bidders as recommended by the Surveyor.

The bidders selected for contract awards will be determined based upon their qualifications to perform the work and their appropriate response(s) to the invitation to bid in accordance with the applicable specifications and statutes.

SP-103.99 BIDS MAY BE ACCEPTED, BE SET ASIDE, OR BE DISREGARDED:

The Board, at its discretion or upon the recommendation of the Surveyor, may accept a bid and award a contract based upon the bid; may set the bid aside for thirty (30) days or longer if agreeable with the bidder; or may disregard or reject the bid for any legitimate reason including lack of available funds to pay for all the work for which bids are received.

SP-104.00 WORK DIVIDED INTO CATEGORIES OF TREATMENT:

Work on the drains shall be divided into several categories of treatment to address the specific needs of the drains listed under the Special Provisions Section for this year.

The Bidder is advised to read each category closely to determine the exact nature of the work required, and to calculate and submit the bid(s) accordingly.

The Bidder also is advised to visit each work site prior to bidding to determine if there are any existing conditions, materials, obstructions, etc. within the ditch or along the work area that will prevent the bidder from accomplishing the work exactly as described herein; or to determine if manpower or special equipment not normally employed by the bidder will be needed to complete the work.

SP-104.01 CATEGORY ONE -- STERILIZING DITCH BOTTOMS:

Sterilizing the ditch bottom by spraying approved herbicides in an appropriate and effective manner resulting in the eradication of all vegetation as described under the General Specifications with regard to herbicide applications.

The bidder must read, make the bid, and accomplish the work in accordance with all of the conditions and requirements pertaining to; herbicide handling, licensing, permitting, insuring, recording in the log, and application dates as directed in the General Specifications with regard to sterilizing ditch bottoms with herbicides.

If standing water, weather conditions, or other factors prevent the application of the herbicide in a significant portion of the ditch designated to be sterilized, the Contractor shall have the choice of:

1. Returning to the untreated site(s) at a later time and completing the work.
2. Leaving the work unfinished and reducing the claim for payment by an amount equal to the number of untreated feet times the price bid per foot to complete the treatment; and in accordance with the formula below:

"A significant portion of the ditch" shall be defined a continuous stretch of ditch greater than two hundred (200.0) feet in length. Untreated "significant portions" shall be measured, totaled, rounded-off downward to the closest multiple of fifty (50) feet, and the resulting distance shall be multiplied times the price bid per foot to determine the deduction for unfinished work that will be subtracted from the payment otherwise due the Contractor.

The method and formula given above for deducting untreated footage from the total bill for a drain shall be employed only in cases where the remainder of a drain was treated satisfactorily, but a "significant portion" was left untreated due to standing water, for instance.

In cases where the entire drain was not treated, no payment shall be considered due nor shall be paid.

Any application of herbicide not in accordance with all above said or referenced specifications must receive approval of the Surveyor prior to the application.

Payment for work described in Category One shall be only for the footage of the drain verified as treated in accordance with the specifications, conditions, and requirements described and/or referenced above, and only at the rate per foot as shown on the Bid Form(s) of the successful bidder (Contractor.)

The Invitation to Submit Bids to Perform Work Described as Category One Under the Special Provisions Section is Extended for the Following Regulated Drains:

- | | |
|--------------------------------|--------------------------|
| 1. EAST SIDE URBAN SOUTH HALF; | 4. KEIL DITCH; |
| 2. EAST SIDE URBAN NORTH HALF; | 5. KOLB DITCH; |
| 3. HARPER DITCH; | 6. SONNTAG STEVENS DITCH |

See Section SP-200 for details of Work Areas, Bid Schedules, and other bidding information related to drains to be bottom sterilized.

SP-104.02 CATEGORY TWO -- BROADLEAF HERBICIDES / BRUSH
KILLERS / GROWTH RETARDANTS:

Applying approved broadleaf herbicide, growth retarding chemicals, and/or approved brush killer to the side banks and top banks of drains in an appropriate and effective manner resulting in the eradication of all broadleaf and/or undesirable vegetation, and/or the retardation of grass growth all as described under the General Specifications with regard to herbicide applications.

The bidder must read, make the bid, and accomplish the work in accordance with all of the conditions and requirements pertaining; to herbicide handling, licensing, permitting, insuring, recording in the log, and application dates as directed in the General Specification for herbicide (spraying) applications.

There will be no allowances made for adverse weather and ditch conditions as in ditch bottom sterilization.

The determination of finished work under Category Two shall be made according to the required kill rate of ninety (90) percent as described in the Standard Specifications, unless:

- (1) otherwise provided for in the Special Provisions Section, or;
- (2) by prior arrangement such as a bid statement attached to the Bid Form(s) with the authorization of the Surveyor and approval by the Board.

The only other allowance which may be made, and then only by prior agreement authorized by the Surveyor, is that if the kill rate is achieved on one bank of the ditch but cannot be achieved on the opposite bank due to conditions beyond the control of the Contractor, the Surveyor may recommend payment of no less than forty (40) percent nor more than fifty (50) percent of the total payment that otherwise would have been due for that particular stretch (footage) of ditch.

Payment for work described in Category Two shall be made only for the footage of the drain actually physically treated in accordance with the specifications, conditions, and requirements described and/or referenced above, and only at the rate per foot as shown on the Bid Form(s) of the successful bidder (Contractor.)

The invitation to submit bids to perform work described as Category Two under the Special Provisions Section is extended for the following regulated drains:

1. DESIGNATED PARTS OF EAST
SIDE URBAN SOUTH HALF
2. DESIGNATED PARTS OF EAST
SIDE URBAN NORTH HALF
3. DESIGNATED PARTS OF EAGLE
SLOUGH
4. DESIGNATED PARTS OF
SONNTAG STEVENS DITCH
5. KEIL DITCH

See SP-200 for details of Work Areas, Bid Schedules, and other bidding information relative to application of broadleaf herbicides/brush killers/growth retardants.

SP-104.03: CATEGORY THREE: MOWING WATERWAYS

Work described as Category Three includes mowing the entire waterway channel and to a distance of five (5) feet outside the top edges of the ditch banks as specified in the General Specifications, or:

Mowing the waterway more particularly as specified for an individual drain within the Special Provisions Sections, including as described in the attachments found in SP-200.

For all drains listed for maintenance under the Special Provisions Section except Cypress Dale Maddox Ditch, the bidder shall enter a "per foot" price under the heading of "Category Three Waterway Mowing" for which price the bidder is willing to complete the contracted mowing(s) of the waterway(s) in accordance with all requirements and conditions of the General Specifications and applicable Special Provisions, as well as in accordance with the following conditions:

- .03a. The Contractor shall "Fall Mow" the entire drain, or the designated portion(s) thereof, once between August 15, 1998, and November 15, 1998, unless the Surveyor authorizes alternate fall mowing dates.
- .03b. The Contractor shall "Spring Mow" designated portions of the drain(s) contracted once between May 15, 1998, and July 15, 1998, unless otherwise ordered or authorized by the Surveyor to begin/complete "Spring Mowing" outside said spring mowing dates.
- .03c. The Contractor shall "Special Mow" designated portions of the drain(s) contracted within thirty (30) days when notified by the Surveyor of the need to mow designated portions of the drain(s.)
- .03d. "Special Mowing" notices will be given by the Surveyor only in cases where the mowing is needed to comply with weed control ordinances, to promote public health or safety, or to address a serious drainage problem.
- .03e. The Contractor shall commence the first mowing of the year only after at least fifty (50) percent of the total vegetation in the waterway has attained a height of twelve (12) inches, or until ordered or authorized by the Surveyor.
- .03f. The Contractor shall commence the second or additional mowing(s) of a ditch only after:
 - 1. At least forty-four (44) days have passed since the day that the "Spring Mowing" of the same ditch was completed; or:
 - 2. At least fifty (50) percent of the total vegetation within the first five (5) feet outside the top edge of each bank of the ditch has exceeded the height of twelve (12) inches; or:
 - 3. Until ordered or authorized by the Surveyor to commence mowing.
- .03g. The Contractor shall begin mowing only after giving the Surveyor or his designated representative a notice twenty-four (24) hours prior to the commencement of mowing activities on an individual ditch or drain.

- .03h. The Contractor shall give a verbal progress report to the Surveyor or his designated representative at least once every working day during the course of the Contractor's mowing activity, including "rain days."
- .03i. The Contractor shall notify the Surveyor or his designated representative within twenty-four (24) hours of completion of mowing of an individual drain or ditch.
- .03j. The Bidder shall be aware prior to submitting a bid that Section 216 of the General Specifications gives mowing dates different than mowing dates given above in the Special Provisions Section; and that:

The mowing dates given in the Special Provisions Section shall prevail over the dates given in General Specifications Section 216 only for those ditches and drains listed in the Special Provisions Section.

- .03k. Unless otherwise specifically described and/or defined,

"Mowing" shall be defined as the removal of all standing vegetation by:

cutting with mechanically driven or hand held blades,

from the vegetation's standing height down to a height of no more than four (4) inches nor less than one (1) inch as measured from the average top remaining level of the vegetation to the ground from which it stands over the entire work area of the waterway and its banks.

The Invitation to Submit Bids to Perform Work Described as Category Three Under the Special Provisions Section is Extended for the Following Regulated Drains:

1. AIKEN DITCH; OR PORTIONS SPECIFIED
2. EAST SIDE URBAN SOUTH HALF; OR PORTIONS SPECIFIED
3. EAST SIDE URBAN NORTH HALF; OR PORTIONS DESCRIBED
4. SONNTAG STEVENS DITCH; OR PORTIONS DESCRIBED
5. HARPER DITCH;
6. KEIL DITCH;
7. KOLB DITCH;

See SP-200 for details of Work Areas, Bid Schedules, and other bidding information related to ditch mowing.

SP-104.04: CATEGORY FOUR: BRUSH AND TREE REMOVAL:

Removing standing and/or living vegetation general classified as or commonly called brush, brambles, vines, saplings, tree sprouts, briars, etc. from an area within and alongside the waterway as specifically described for certain individual drains listed within the Special Provisions.

When removing "brush" the Work Area will be described by exact location and dimensions such as:

"The entire waterway of Eagle Slough from Weinbach Avenue thence East to Green River Road and the tops of the ditch banks to a distance of twenty-five (25) feet outside of both ditch banks as measured at right angles from the tops of the banks of the ditch at all places along the length of the work area, or as determined and directed by the Surveyor."

The removal of "brush" within the defined and described Work Area shall include:

All standing and/or living vegetation with a primary stalk, primary stem, or trunk diameter up to twelve (12) inches when measured at a vertical distance of three (3) feet above the plant's emergence from the ground:

EXCEPT FOR: agricultural crops and gardens, **bald cypress** trees of any size, and desirable grass cover where it can be avoided.

The removal of the "brush" shall be complete to the extent that no remains of the primary stem, primary stalk, or trunk shall protrude upward from the ground greater than (4) inches within the waterway nor greater than two (2) inches within the twenty-five (25) foot wide areas outside of either bank

The removal of the brush shall be accomplished by mechanical or hand held bladed equipment or machinery together with other necessary ancillaries.

All cuttings from the brush removal operation shall be removed from the site or shall be chipped and spread on site within the work area so long as the chipping and spreading results in a mat of chips no deeper than six (6) inches anywhere within the work area or on private or public property adjacent to the work area.

The Contractor shall leave the work area free of all other waste generated by his workmen, equipment, visitors, service persons, and other parties associated with the work.

The Invitation to Submit Bids to Perform Work Described as Category Four Under the Special Provisions Section is Extended for the Following Regulated Drains:

(None specified at this time)

Areas of certain ditches may be bid in 1998 after further inspection and contemplation.

See SP-200 for details of Work Areas, Bid Schedules, other bidding information.

SP-104.05: CATEGORY FIVE: SILT DIPPING:

Removing and disposing of accumulated silt, sediment, earth, along with associated organic material within such accumulated sediment all from the bottom of the waterway, and/or from the side banks if specified, and all as specifically described for certain drains listed within the Special Provisions.

The Contractor shall use excavation machinery and equipment outfitted with a blade-edged bucket (without teeth) to reach into the waterway and remove all accumulated soil, silt, and associated sediment from the ditch bottom in a manner that will restore the originally planned or previously constructed flow line, grade, and ditch bottom configuration.

The dirt spoil and organic waste removed from the ditch bottom by the silt dipping operation shall be removed from the site, or shall be spread evenly across the land laying on either bank of the ditch and to a distance of up to seventy-five (75) feet outward from the top of either bank unless otherwise specified or directed by the Surveyor.

The spoil, if spread, shall be spread as thinly and evenly as possible, and in no case shall the spreading of the spoil redirect or obstruct the previously existing surface water drainage pattern whether overland or through channels, nor cause the pooling of storm runoff.

The spoil may be placed to fill voids or cavities in the land only if directed by the Surveyor or the landowner(s) of the real estate over which the seventy-five foot wide drain "easements" exists.

The ditch bottom shall be defined as the area from the toe of one ditch bank across the flow line to the toe of the opposite ditch bank; or that area which is generally submerged, wet or damp during low water conditions.

When silt or accumulated material is removed from the side banks of the drain either in association with the bottom dipping operation, due to the necessity to stabilize the side bank or toe, or at the direction of the Surveyor, such removal shall result only in the restoration of the originally designed or previously existing side bank slope, or shall conform generally to the existing upstream and/or downstream stable portions of the ditch banks.

"Over-excavation" of the ditch bottom or excavation which extends below the normal, pre-existing, or planned flow line shall be only for the installation of "silt traps" at the direction or determination of the Surveyor; and in no case shall such "silt traps" be excavated greater than two (2) feet deeper than the normal flow line.

The Invitation to Submit Bids to Perform Work Described as Category Five Under the Special Provisions Section is Extended for the Following Regulated Drains:

1. Pond Flat Main
2. Pond Flat Lateral "B"

SP-104.06: CATEGORY SIX: OBSTRUCTION REMOVAL:

Removing specific obstructions such as beaver dams, large fallen trees, waste concrete and/or other improperly discarded construction materials, old pipes, bridges, or other ditch crossings, log jams, flood debris, or other items which may be designated as "obstructions" by the Surveyor during the course of the work year.

This category also allows the Bidder to designate certain work which obviously needs to be done, but for which work the Bidder either was not asked to bid, does not normally accomplish, does not have the equipment to accomplish, etc.; but which work the Bidder decides to offer a bid price, or the Surveyor decides to ask for a bid price because the need for the work was discovered during an inspection of the work site.

Work found to be needed after a wind storm, beaver invasion, flood, or other natural or man made causes are examples of Category Six work.

All bids submitted for Category Six work must be very specific as to how the work will be accomplished, what equipment will be used, how and where the debris and waste material will

be disposed, how the work site will be left, etc.; and the names of subcontractor, if any, must be listed with the bid.

BIDS FOR REMOVAL OF OBSTRUCTIONS MAY BE ADVERTISED AT ANYTIME THROUGHOUT THE YEAR AS OBSTRUCTIONS ARE LOCATED OR IDENTIFIED.

SP-104.07: CATEGORY "X": EXTRA OR ADDITIONAL WORK:

Category "X" covers very specific additional maintenance as described per individual drain within the Special Provisions.

Most of Category "X" work is specialized work which may be needed only once in a great while; or special projects which require extensive additional specification.

An example of Category "X" work might be the installation of rip rap or other revetment treatment along a bank or end of a pipe culvert where erosion control is required.

CHECK SECTION SP-200 FOR ANY INVITATIONS TO BID CATEGORY "X" WORK AT THIS TIME. CATEGORY "X" WORK ALSO MAY BE ADVERTISED AT ANY TIME DURING THE YEAR AS NEED ARISES.

SP-105.00: PAYMENT FOR COMPLETED WORK:

All payments to Contractors shall be made only for approved completed work and only in accordance with all applicable statutes, as well as with the following:

SP-105.01: CATEGORIES 1, 2, 3, 4, & 5 SHALL BE "PER FOOT BIDS":

All work specified in Category One through Category Five shall be bid on a "per foot" basis.

That is, the Bidder shall submit a Bid for the work described at the per foot rate for which the Bidder is willing to perform the work no matter how few or how many feet of the drain are completed during the course of the work.

In every case there is a designated minimum footage given in Section 200 for each drain or part thereof for which a contract is anticipated to be let in 1998. No Contractor will be obligated to mobilize to treat less than the minimum footage shown for each drain or part of a drain as specified in SP-200.

After determining the per foot bid price, the Bidder must enter the per foot price in the appropriate blank on the Bid Schedule and on Bid Form 96.

The Bidder then must multiply the per foot price times the number of feet specified to be treated under to determine the Total Sum of the Bid for each category of work.

The sum(s) must be shown on the Bid Schedule(s) and on Bid Form(s) 96

Example:

Blackwater Ditch: Category Two: 1000 L.F. Broadleaf Herbicide Application

\$0.749 per foot X 1,000.00 feet = \$749.00 Total Bid

P-105.02: CATEGORY SIX BIDS SHALL BE A LUMP SUM:

All Bids submitted for Category Six shall be given as a "Lump Sum" reflecting the total amount for which the Bidder is willing to accomplish the work described.

Example:

Hawk Slough: Category Six: Remove Beaver Dam 1320' west of Vicks Road:
\$250.00 Lump Sum

SP-105.03: CATEGORY "X" BIDS SHALL BE PER SPECIFICATION:

Due to the special nature of the work designated under Category "X" the Bids shall be submitted exactly as specified by the description of the work and exactly as called for on the designated Bid Schedule attached for use by the Bidder.

SP-106.00: SUCCESSFUL BIDDER DETERMINED BY THE BOARD:

The Board shall determine the successful Bidder after opening and examining the bids, hearing the advise of the Board's council, and receiving the recommendation of the Surveyor with regard to the bids.

Awards of contracts for the completion of work may be made to one or more Bidders or Contractors on a single drain based upon the specifications and descriptions of work herein, the recommendation of the Surveyor with regard to bid price(s), qualifications of the bidder(s), and other criteria and considerations as allowed by statute.

For example, the Surveyor may recommend that on a single drain there be one mowing contractor, and a different contractor to spray herbicides.

Or the Surveyor may determine that all the bids submitted on a particular drain exceed the available funds; and that only half the drain will be treated in a given year; or that it will be mowed only once; or that it will be sprayed but not mowed; or any other appropriate decision based upon funds, needs, and other criteria.

In all cases, the determinations and decisions of the Surveyor will be made based upon sound judgment in accordance with needs and funds and shall be reported to the Board whenever and however is appropriate.

SP-107.00 PAYMENT OF CLAIMS:

All payments of all claims for work shall be made in accordance with the prices shown on the successful Bid and in the awarded Contract, in accordance with applicable statutes of the State of Indiana, and in accordance with the following:

SP-107.01: Payment of claims shall be made only for services rendered and work completed. No payment shall be made for footage not treated nor for unfinished work regardless of the reason the work was not accomplished, except that:

Partial payment for partially completed work (whether bid per foot or bid as a lump sum) may be paid only if determined appropriate by the Surveyor and the Board; and only in an amount equal to the percentage of work completed or the actual footage completed.

SP-107.02: Payment of claims will be made only after the Surveyor or his designated representative(s) has/have visited and inspected the work site, approved the work, and reported approval to the Board.

SP-108.00 BIDDER MUST BE QUALIFIED:

The Bidder must be qualified to perform the work on which the Bidder submits a bid; and the qualification of the Bidder shall be by virtue of licensing, experience, equipment ownership or leasing, and other specifics either given herein, appended hereto, or generally understood and accepted by the industry of which the work is a part.

If the Bidder does not enter a bid under a particular category listed on the Bid Schedule for a drain listed in the Special Provisions, the lack of an entry in that category shall indicate that the Bidder either is not interested in that particular category of work, or that the Bidder is not qualified to perform that category of work.

If the Bidder enters a bid under a particular category listed on the Bid Schedule for a drain, the entry of a bid in that category shall indicate that the Bidder is qualified to perform the work described by virtue of licensing, experience, equipment ownership or lease, skill of the Bidder's work force, and other qualifications necessary to perform the work adequately.

A bidder who is discovered or determined to be not qualified to perform work for which the bidder submitted a bid shall be subject to be disregarded for all work specified under these General Specifications and Special Provisions in 1998.

Any Bidder who specifies a subcontractor who is discovered or determined to be not qualified to perform the work also shall be subject to be disregarded for work specified under these General Specifications and Special Provisions in 1998.

SP-109.00: 90% KILL RATE FOR HERBICIDE APPLICATIONS:

The Surveyor requires and the Spraying Contractors shall guarantee a kill percentage on ninety (90) percent of targeted vegetation unless otherwise specified in these Special Provisions or as specifically noted in the Contract.

SP-110.00: REPEAT SPRAYING TO ACHIEVE KILL RATE:

The responsibility and the costs of any additional applications (re-spraying) of herbicides required to achieve the designated kill rate shall be the Contractor's responsibility and at the

Contractor's cost; and such additional applications shall continue until the designated kill rate is achieved.

SP-111.00: ALL CONDITIONS AND REQUIREMENTS OF THE GENERAL SPECIFICATIONS APPLY TO THE SPECIAL PROVISIONS:

The General Specifications hereby are made a part of the Special Provisions, and the Special Provisions are made a part of the General Specifications.

The conditions and the requirements of the General Specifications must be met by the Contractors performing work on drains covered by the Special Provisions except where such conditions and requirements are in direct conflict, in which case the decision and determination of the Surveyor shall prevail

The conditions and requirements of the Special Provisions are additional to the General Specifications.

Any questions or corrections the Bidder may have or may offer regarding the General Specifications, Special Provisions, or material and attachments thereto must be made prior to submitting a bid, or the Board and the Surveyor shall assume that the Bid is made with the understanding that the Bidder shall abide solely according the General Specifications, Special Provisions, and the determinations of the Surveyor and the Board.

SP-112.00: SURVEYOR'S INTERPRETATION OF SPECIFICATIONS SHALL BE THE PREVAILING INTERPRETATION:

If there is a question by the Bidder or the Contractor as to the intended interpretations or expressed requirements of the General Specifications, Special Provisions, State Statutes, or any other written or verbal directives, the Bidder must ask the Surveyor prior to submitting a bid, and the Contractor must ask prior to performing the Work.

The Surveyor's interpretation of the conditions and requirements of the General Specifications and Special Provisions shall be the prevailing interpretation unless otherwise countermanded by the Board or other higher legal authority.

SP-113.00: SURVEYOR AVAILABLE TO CONSULT WITH BIDDER:

The County Surveyor and staff are available to discuss and interpret the specifications and other particulars of the bidding instructions.

The Surveyor and staff are available to direct the Bidder with regard to the various work area locations, conditions, histories, and other attributes of the work sites.

SP-114.00: DITCH DESCRIPTIONS AND MAPS AVAILABLE:

Maps and written descriptions detailing the location of the various drains and work areas are available from the County Surveyor; and the Surveyor and staff are available to field locate sites upon the request of the Bidders and Contractors.

SP-115.00: BID SCHEDULES PROVIDED FOR SP DRAIN PROJECTS:

Please find in the following Section SP-200 individual descriptions of the location, nature, and specific instructions for work on drains listed for Special Provisions; as well as individual Bid Schedules for each SP Project.

The individual Bid Schedule for each SP Project must be completed in accordance with the instructions given herein, signed, notarized, attached to the required Bid Form 96, sealed in an envelope and delivered to the Vanderburgh County Auditor, Room 208 Civic Center, 1 N.W. Martin Luther King, Jr. Blvd., Evansville, Indiana, 47708 before 4:30 P.M. local time Monday, March 23, 1998.

Each Bid on each drain requires an individual Form 96, because each Bid is for work on an individual SP Project or job.

SP-116.00: BIDDER ADVISED TO INSPECT WORK SITES BEFORE BIDDING:

The Bidder's lack of awareness of existing or potential conditions at a work site shall not be cause to default on a submitted bid nor cause to request additional compensation nor cause to request or be granted special consideration.

The Bidder may visit any work site prior to bidding to discover the existence of and/or potential for conditions requiring attention by the Bidder prior to submitting a bid; and the Bidder may attach written conditions to the bid so long as such conditions are reasonable and legal.

The recommendations of the Surveyor to the Board, and the determinations of the Board with regard to submitted bids and contract awards are totally at the discretion and pleasure of the Surveyor and the Board as regulated by Indiana Drainage Statutes.

PLEASE CONTINUE TO SECTION SP-200 FOR INDIVIDUAL BID SCHEDULES

SECTION SP-200

CONTAINS "BID SCHEDULES" FOR SPECIAL PROVISIONS PROJECTS.

BID SCHEDULES ARE BID FORMS SPECIALLY DESIGNED FOR EACH PROJECT COVERED BY THE SPECIAL PROVISIONS SECTION.

DETACH AND FILL OUT THE BID SCHEDULE(S) FOR THE PROJECT(S) ON WHICH YOU WISH TO BID.

HAVE BID SCHEDULE(S) NOTARIZED.

ATTACH BID SCHEDULE(S) TO PROPERLY EXECUTED BID FORM(S) 96. MAKE SURE THE FORM(S) 96 IS (ARE) ABSOLUTELY CORRECT IN EVERY DETAIL AND MATCH THE BID(S) SHOWN ON THE BID SCHEDULE(S).

SEAL YOUR BID FOR EACH PROJECT IN A SEPARATE ENVELOPE WITH A BID BOND, CHECK, ETC. IN AN AMOUNT EQUAL TO 5% OF THE BID.

THE OUTSIDE OF THE ENVELOPE SHOULD LOOK SOMETHING LIKE THIS:

From: ABC Construction Company
123 North Main Street
Middletown, Ohio 45678

U.S. Postage

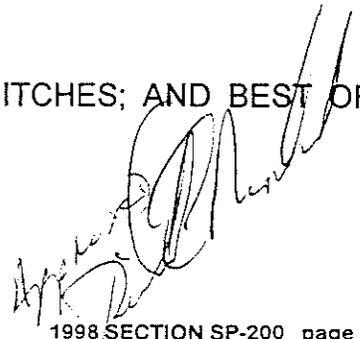
To: The Vanderburgh County Drainage Board
c/o The Vanderburgh County Auditor
Room 208 Civic Center Complex
1 NW Martin Luther King, Jr. Blvd.
Evansville, Indiana 47708

SEALED BID FOR: The Maintenance of Harper Valley Ditch

EXCEPT IT SHOULD HAVE THE REAL NAMES AND INFORMATION ON IT!!

YOU MAY HAND DELIVER THE ENVELOPE OR MAIL IT TO THE AUDITOR; BUT EITHER WAY -- IT MUST BE IN THE AUDITOR'S HANDS NO LATER THAN 4:30 P.M. CENTRAL STANDARD TIME, MONDAY, MARCH 23, 1998.

THANK YOU FOR YOUR INTEREST IN BIDDING OUR DITCHES; AND BEST OF LUCK WITH YOUR BUSINESS IN 1998.



SP-201 AIKEN DITCH

Ditch Name: <u>AIKEN DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>SPRING WATERWAY MOWING</u>
Lineal Feet: <u>2,450</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: Beginning on the south side of Pollack Ave. at the east end of a culvert about 100 ft. east of Hoosier Ave.; thence east 2,450 feet to the marker on telephone pole across from S.E. corner of the smaller SIGECO substation property.

The bidder shall submit a bid using Bid Schedule SP-201.3sp and showing one price per lineal foot of ditch which price the bidder is willing to receive as payment for the "spring mowing" of the described 2,450 feet of waterway (bottom, side slopes, and tops of banks to a distance 5 ft. outside the top edge of the bank) as described in the General Specifications and the Special Provisions Section SP-103; and in accordance with all laws and regulations governing such work.

Ditch Name: <u>AIKEN DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>FALL WATERWAY MOWING</u>
Lineal Feet: <u>5,025</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: Beginning at the marker on the telephone pole described above; thence 2,450 feet west to the culvert 100 ft. east of Hoosier Avenue; thence southeast to the pump station culvert under I-164.

The Bidder shall submit a bid using Bid Schedule SP-201.3fm and showing one price per lineal foot of ditch which price the Bidder is willing to receive as payment for the "fall mowing" of the described 5,025 feet of waterway and top of banks of the ditch in the same manner as described above for the spring mow, and in the General Specifications and Special Provisions Section SP-104.03.

The Bidder shall attach both Bid Schedules to a properly executed Bid Form 96.

BID SCHEDULE SP-201.3sp
Special Provisions Project

Ditch Name: AIKEN DITCH Year: 1998
Category of Work: THREE Work Description: SPRING WATERWAY MOWING
Lineal Feet: 2.450 (total) (minimum) (XX maximum)

Description of Work Area: Beginning on the south side of Pollack Ave. at the east end of a culvert about 100 ft. east of Hoosier Ave.; thence east 2,450 feet to the marker on telephone pole across from S.E. corner of the smaller SIGECO substation property.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on AIKEN DITCH:
Work Category: THREE: Work Description: SPRING WATERWAY MOWING
2,450 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)
COUNTY OF _____ }
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 ____.

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

Special Provisions Project

Ditch Name: <u>AIKEN DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>FALL WATERWAY MOWING</u>
Lineal Feet: <u>5.025</u>	(___ total) (___ minimum) (<u>XX</u> maximum)

Description of Work Area: Start on S. side Pollack Ave. at marker on telephone pole across from S.E. corner of smaller SIGECO substation property; thence west 2,450 ft. to culvert 100 ft. east of Hoosier Ave.; thence southeast to pump stations culverts under I-164.

I, _____, _____
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>AIKEN DITCH</u> :
Work Category: <u>THREE</u> : Work Description: <u>FALL WATERWAY MOWING</u>
5,025 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-203 EAGLE SLOUGH

Ditch Name: <u>EAGLE SLOUGH</u>	Year: <u>1998</u>
Category of Work: <u>TWO</u> Work Description: <u>APPLYING BROADLEAF HERBICIDE</u>	
Lineal Feet: <u>30,040</u> (___ total) (___ minimum) (<u>XX</u> maximum)	

Description of Work Area: FOR THE APPLICATION OF BROADLEAF HERBICIDES AND BRUSH KILLERS: Start on the East side of Waterworks Road multi-pipe headwall at Inland Marina on outside of levee; thence East and upstream to a point in the center of Section One, Township Seven South, Range Ten West, 1/2 mile East of Green River Road.

The bidder shall enter upon the Bid Schedule SP-203.2 a price per lineal foot times 30,040 lineal feet for a total sum of dollars for which price the bidder is willing to complete the work according to the conditions, requirements and other particulars as described in the Notice to Bidders, the General Specifications, and the Special Provisions with regard to APPLICATION OF HERBICIDES AND BRUSH KILLERS; and shall attach said bid schedule to a properly executed Bid Form 96.

The Contractor shall apply approved Herbicides and Brush Killers onto all undesirable vegetation within the waterway and to a distance of twenty-five (25) feet outside the top of each bank of the waterway for the entire 30,040 feet portion of Eagle Slough described above, EXCEPT:

The Contractor shall not apply any Herbicide nor Brush Killer onto AGRICULTURAL CROPS nor onto BALD CYPRESS TREES (of any size or age what so ever); and:

The Contractor shall use Herbicides and Brush Killers which are specified to kill all undesirable broadleaf vegetation and brush as described in the General Specifications and Special Provisions; and such chemicals shall be specified and/or handled so as not to destroy desirable grass cover, agricultural crops, or bald cypress trees.

The 30,040 feet of Eagle Slough described above is easily accessible and reasonably capable of travel by motorized equipment; and was treated in 1995 with Broadleaf Herbicides and Brush Killers with good results. Brush cutting project 1996 has cleared the banks from Waterworks Road to Weinbach Avenue.

**BID SCHEDULE SP-203.2
Special Provisions Project**

Ditch Name: <u>EAGLE SLOUGH</u>	Year: <u>1998</u>
Category of Work: <u>TWO</u> Work Description: <u>APPLYING BROADLEAF HERBICIDE</u>	
Lineal Feet: <u>30,040</u> (___ total) (__ minimum) (<u>XX</u> maximum)	

Description of Work Area: FOR THE APPLICATION OF BROADLEAF HERBICIDES AND BRUSH KILLERS: Start on the East side of Waterworks Road multi-pipe headwall at Inland Marina on outside of levee; thence East and upstream to a point in the center of Section One, Township Seven South, Range Ten West, 1/2 mile East of Green River Road.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>EAGLE SLOUGH</u>
Work Category: <u>TWO</u> : Work Description: <u>APPLYING BROADLEAF HERBICIDE</u>
30,040 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-205 EAST SIDE URBAN NORTH HALF

Ditch Name: EAST SIDE URBAN NORTH HALF

Year: 1998

Category of Work: THREE Work Description: FALL WATERWAY MOWING

Lineal Feet: 21,127 (___ total) (___ minimum) (XX maximum)

Description of Work Area: East Side Urban North Half: Entire Drain Consisting of:

1. Crawford Brandeis Extension: Beginning on the north side of Morgan Avenue approximately 3/4 mile east of Green River Road and approximately 1,500 feet west of Burkhardt Road; thence northward and downstream 14,102 feet to Pigeon Creek.
2. Boesche Ditch: Beginning at its mouth into Crawford Brandels Extension at the intersection of Burkhardt Road and Hirsch Road; thence eastward and upstream 7,025 feet to the Vanderburgh / Warrick County line one half mile east of Old Boonville Highway.

The bidder shall submit a bid using Bid Schedule SP-205.3 and showing one price per 21,127 lineal foot of ditch which price the bidder is willing to receive as payment for the "fall mowing" of waterway (bottom, side slopes, and tops of banks to a distance 5 ft. outside the top edge of the bank) as described in the General Specifications and the Special Provisions with regard to FALL WATERWAY MOWING; and in accordance with all laws and regulations governing such work. The Bidder shall attach Schedule SP-205.3 to a properly executed Bid Form 96.

**BID SCHEDULE SP-205.3
Special Provisions Project**

Ditch Name: <u>EAST SIDE URBAN NORTH HALF</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>FALL WATERWAY MOWING</u>
Lineal Feet: <u>21,127</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: East Side Urban North Half: Entire Drain Consisting of:

1. Crawford Brandeis Extension: Beginning on the north side of Morgan Avenue approximately 3/4 mile east of Green River Road and approximately 1,500 feet west of Burkhardt Road; thence northward and downstream 14,102 feet to Pigeon Creek.
2. Boesche Ditch: Beginning at its mouth into Crawford Brandeis Extension at the intersection of Burkhardt Road and Hirsch Road; thence eastward and upstream 7,025 feet to the Vanderburgh / Warrick County line one half mile east of Old Boonville Highway.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>EAST SIDE URBAN NORTH HALF:</u>
Work Category: <u>THREE:</u> Work Description: <u>FALL WATERWAY MOWING</u>
21,127 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

Ditch Name: EAST SIDE URBAN SOUTH HALF	Year: 1998
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZING DITCH BOTTOMS</u>
INDIVIDUAL DITCHES WHICH MUST BE TREATED:	
1. Bonnie View Ditch:	1,458 lineal feet
2. Bonnie View Extension	623 lineal feet
3. Nurrenbern Ditch	8,612 lineal feet
4. <u>Stockfleth</u>	<u>6,144 lineal feet</u>
Total minimum	16,837 lineal feet to be sterilized in 1998

The Bidder shall enter onto Bid Schedule SP-204.1 the price per lineal foot for which the Bidder is willing to perform the work according to the conditions, requirements, and other particulars as described herein and within the Notice to Bidders, the General Specifications, and the Special Provisions with regard to sterilizing the bottom of ditches.

Listed above are four (4) individual ditches within East Side Urban South Half along with their sum of lineal feet which shall be treated with sterilants in 1998. Additional footage may be treated if conditions are favorable at the same time the above listed 16,837 feet are sprayed, but only if authorized by the Surveyor.

ADDITIONAL DITCHES WHICH MAY BE TREATED:

5. Hirsch Ditch	up to 3,392 lineal feet	
6. Kelly Ditch	up to 7,600 lineal feet	
7. <u>Wabash Erie</u>	<u>up to 1,385 lineal feet</u>	
Total additional	12,377 lineal feet	potential

Some or all of the additional lineal feet listed in ditches numbered 5, 6, 7, above may be treated. The Bidder must enter the per lineal foot price for which the Bidder is willing to sterilize the 16,837 lineal feet in the first four ditches plus any part of the footage in the second three ditches.

In no case shall the Contractor be required or directed to treat less than nor be paid for less than six hundred sixty (660) continuous feet of any one of the second three ditches. All of the ditches are interconnected and in close proximity to one another geographically.

SP-204 EAST SIDE URBAN SOUTH HALF (CONTINUED)

Ditch Name: East Side Urban Drain, South Half

Year 1998

Category of Work: TWO "A" Work Description: APPLY BROADLEAF HERBICIDE

Use Bid Schedule SP-204.2"A" for broadleaf herbicide only application

INDIVIDUAL DITCHES WHICH MAY BE TREATED:

1. Stockfleth Ditch	6,144 lineal feet
2. Nurrenbern Ditch	8,612 lineal feet
3. <u>Kelly Ditch</u>	<u>7,600 lineal feet</u>
Total maximum	22,356 lineal feet may be treated in 1998

PURPOSE: The purpose of this invitation is to determine if it is more economical to apply broadleaf herbicide than to mow the three drains listed above.

If a contract is let to apply broadleaf herbicides on East Side Urban South Half, it shall be let for no less than one entire ditch nor more than three entire ditches of those listed immediately above. In no case shall the Contractor be required to treat less than the entire footage of the individual ditch for which a contract is let.

The Bidder shall enter onto Bid Schedule SP-204.2"A" the price per lineal foot for which the Bidder is willing to perform the work according to the conditions, requirements, and other particulars as described herein and within the Notice to Bidders, the General Specifications, and the Special Provisions with regard to the application of broadleaf herbicides to the waterways and to a distance of five (5) feet outside the tops of the banks of the waterways.

The price shown shall be the per foot price for which the Bidder is willing to complete the work whether the Contract is let for one, two, or all three of the ditches listed above.

All work described as "application of broadleaf herbicide" to the three ditches listed above shall be performed by the same contractor; and only one contract shall be let whether it be let for one, two, or all three ditches listed above.

The completed Bid Schedule SP-204.2"A" shall be attached to a properly executed Bid Form 96.

SP-204 EAST SIDE URBAN SOUTH HALF (CONTINUED)

Ditch Name: East Side Urban Drain, South Half	Year 1998
Category of Work: <u>THREE</u>	Description of Work: <u>WATERWAY MOWING</u>
SPRING MOWING: 11,958 lineal feet minimum	21,702 lineal feet maximum
FALL MOWING: 18,102 lineal feet minimum	34,314 lineal feet maximum
TOTAL MOWING 30,060 lineal feet minimum	56,016 lineal feet maximum

INDIVIDUAL DITCH BREAK - OUT: SPRING "WILL MOW":

1. Bonnie View Ditch 1,458 lineal feet
 2. Bonnie View Extension 623 lineal feet
 3. Crawford Brandeis Ditch 5,100 lineal feet ****SEE NOTE BELOW FOR LOCATIONS****
 4. Hirsch Ditch 3,392 lineal feet
 5. Wabash Erie 1,385 lineal feet
- Total minimum spring mow 11,958 lineal feet

ADDITIONAL DITCHES WHICH MAY BE MOWED IN SPRING

1. Stockfleth Ditch 6,144 lineal feet
 2. Nurrenbern South of Virginia St. 3,600 lineal feet
- Total maximum additional 9,744 lineal feet ONLY IF ORDERED BY SURVEYOR

Total minimum projected for spring mow	11,958 lineal feet
Total maximum projected for spring mow	21,702 lineal feet

INDIVIDUAL DITCH BREAK-OUT: FALL "WILL MOW":

1. Bonnie View Ditch 1,458 lineal feet
 2. Bonnie View Extension 623 lineal feet
 3. Crawford Brandeis 5,100 lineal feet ****SEE NOTE BELOW FOR LOCATIONS****
 4. Stockfleth 6,144 lineal feet
 5. Hirsch 3,392 lineal feet
 6. Wabash Erie 1,385 lineal feet
- Total minimum fall mow 18,102 lineal feet

ADDITIONAL DITCHES WHICH MAY BE MOWED IN FALL

1. Nurrenbern Ditch 8,612 lineal feet
 2. Kelly Ditch 7,600 lineal feet
- Total maximum additional 16,212 lineal feet ONLY IF & WHEN ORDERED BY SURVEYOR

Total minimum projected for fall	18,102 lineal feet
Total maximum projected for fall	34,314 lineal feet

****NOTE** CRAWFORD BRANDEIS DITCH IS UNDER RECONSTRUCTION IN 1998 AND THE ONLY PARTS TO BE MOWED ARE: (1) FROM LLOYD SOUTH FOR 1900 FEET; (2) OAK GROVE NORTH FOR 1300 FEET; (3) BURKHARDT WEST FOR 1500 FEET TO STOCKFLETH DITCH. NO OTHER PARTS TO BE MOWED IN 1998.**

SP-204 EAST SIDE URBAN SOUTH HALF (CONTINUED)

The Bidder shall enter onto Bid Schedule SP-204.3 one price per lineal foot times 30,060 lineal feet for a sum total of dollars that the Bidder is willing to be paid for mowing the minimum number of lineal feet in 1998 East Side Urban South Half as shown on the preceding page, and in accordance with the conditions, requirements, and other particulars described in the Notice to Bidders, General Specifications, and Special Provisions.

The Bidder shall attach the Bid Schedule SP-204.3 to a properly executed Bid Form 96 and submit it in accordance with directions given herein and in the Notice to Bidders.

The Surveyor may direct the successful bidder to mow additional lineal feet in 1998 East Side Urban South Half ditches as such mowing is determined to be required by the Surveyor; and the Contractor shall be paid for all additional mowing at the per lineal foot price shown on the Bid Schedule and Bid Form of the successful bidder.

**BID SCHEDULE SP-204.1
Special Provisions Project**

Ditch Name: <u>EAST SIDE URBAN SOUTH HALF</u>	Year: <u>1998</u>
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZING DITCH BOTTOMS</u>
Lineal Feet: <u>16.837</u>	(<u> </u> total) (<u>XX</u> minimum) (<u> </u> maximum)

Description of Work Area: East Side Urban South Half: In accordance with Sheet Titled "SP-204: EAST SIDE URBAN SOUTH HALF" for Work Category ONE; Bonnie View, Bonnie View Extension, Crawford Brandeis, and Stockfleth Ditches; per specs.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>EAST SIDE URBAN SOUTH HALF</u> :
Work Category: <u>ONE</u> : Work Description: <u>STERILIZING DITCH BOTTOMS</u>
16,837 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

BID SCHEDULE SP-204.2"A"
Special Provisions Project

Ditch Name: <u>EAST SIDE URBAN SOUTH HALF</u>	Year: <u>1998</u>
Category of Work: <u>TWO"A</u> Work Description: <u>BROADLEAF HERBICIDE APPLICATION</u>	
Lineal Feet: <u>22,356</u> (___ total) (__ minimum) (<u>XX</u> maximum)	

Description of Work Area: In accordance with Sheet Titled "SP-204: EAST SIDE URBAN SOUTH HALF CONTINUED" for Work Category TWO"A"; Stockfleth, Nurrenbern, Kelly Ditches; per specs.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>EAST SIDE URBAN SOUTH HALF:</u>
Work Category: <u>TWO"A</u> : Work Description: <u>BROADLEAF HERBICIDE APPLICATION</u>
22,356 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 ____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

**BID SCHEDULE SP-204.3
Special Provisions Project**

Ditch Name: <u>EAST SIDE URBAN SOUTH HALF</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u> Work Description: <u>WATERWAY MOWING - SPRING & FALL</u>	
Lineal Feet: <u>30.060</u> (<u>XX</u> total) (<u> </u> minimum) (<u> </u> maximum)	

Description of Work Area: In accordance with Sheet Titled "SP-204: EAST SIDE URBAN SOUTH HALF CONTINUED" for Work Category THREE; See individual ditch lists for 30,060 l.f. minimum and 56,016 l.f. maximum spring and fall mowing; per specs.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>EAST SIDE URBAN SOUTH HALF:</u>
Work Category: <u>THREE:</u> Work Description: <u>WATERWAY MOWING-SPRING & FALL</u>
30,060 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)
COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)
deposes and says that he/she is _____
(title of person signing)

of the above _____;
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-206 HARPER DITCH

Ditch Name: HARPER DITCH Year: 1998
Category of Work: ONE Work Description: STERILIZING DITCH BOTTOM
Lineal Feet: 2.950 (XX total) (minimum) (maximum)

Description of Work Area: Beginning on the north side of the service road north of the Lloyd Expressway 1/4 mile east of Green River Road; thence north to Carriage House Apartments; thence west to the rear line of Eastland Place Mall.

The bidder shall submit a bid using Bid Schedule SP-206.1 and showing one price per lineal foot of ditch which price the bidder is willing to receive as payment for the complete sterilization of the ditch bottom as described in the General Specifications and the Special Provisions Section SP-104.01; and in accordance with all laws and regulations governing such work.

Ditch Name: HARPER DITCH Year: 1998
Category of Work: THREE Work Description: WATERWAY MOWING
Lineal Feet: 2.950 (X total) (minimum) (maximum)

Description of Work Area: Beginning on the north side of the service road north of the Lloyd Expressway 1/4 mile east of Green River Road; thence north to Carriage House Apartments; thence west to the rear line of Eastland Place Mall behind Shoe Carnival.

The Bidder shall submit a bid using Bid Schedule SP-206.3 and showing one price per lineal foot of ditch which price the Bidder is willing to receive as payment for completely mowing the described 2,950 feet of waterway and top of banks of the ditch as described in the General Specifications and Special Provisions Section SP-104.03.

The price per foot that the successful bidder enters onto the documents shall be the price used to calculate all payments for any mowing accomplished on Harper Ditch in accordance with said specifications whether as "spring mowing", "fall mowing", or "special mowing" all in accordance with SP-104.03.

"Special mowing", if ordered, will be no less than five hundred (500) lineal feet of ditch at one time.

The Bidder shall attach both Bid Schedules to a properly executed Bid Form 96.

SP-207 KEIL DITCH

Ditch Name: <u>KEIL DITCH</u>	Year: <u>1998</u>
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZING DITCH BOTTOM</u>
Lineal Feet: <u>3,012</u>	(<u>XX</u> total) (__ minimum) (__ maximum)

Description of Work Area: Beginning on the south end of the culvert under St. George Road at the southeast corner of the Evansville Regional Airport property and on the east side of the Conrail RR line to Sonntag Stevens Ditch.

The bidder shall submit a bid using Bid Schedule SP-207.1 and showing one price per lineal foot of ditch which price the bidder is willing to receive as payment for the complete sterilization of the ditch bottom as described in the General Specifications and the Special Provisions Section SP-104.01; and in accordance with all laws and regulations governing such work.

Ditch Name: <u>KEIL DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>WATERWAY MOWING</u>
Lineal Feet: <u>3,012</u>	(<u>X</u> total) (__ minimum) (__ maximum)

Description of Work Area: Beginning on the south end of the culvert under St. George Road at the southeast corner of the Evansville Regional Airport property and on the east side of the Conrail RR line to Sonntag Stevens Ditch.

The Bidder shall submit a bid using Bid Schedule SP-207.3 and showing one price per lineal foot of ditch which price the Bidder is willing to receive as payment for completely mowing the described 2,950 feet of waterway and top of banks of the ditch as described in the General Specifications and Special Provisions Section SP-104.03.

The price per foot that the successful bidder enters onto the documents shall be the price used to calculate all payments for any mowing accomplished on Harper Ditch in accordance with said specifications whether as "spring mowing", "fall mowing", or "special mowing" all in accordance with SP-104.03.

"Special mowing", if ordered, will be no less than five hundred (500) lineal feet of ditch at one time.

The Bidder shall attach both Bid Schedules to a properly executed Bid Form 96.

BID SCHEDULE SP-207.1
Special Provisions Project

Ditch Name: KEIL DITCH Year: 1998
Category of Work: ONE Work Description: STERILIZE DITCH BOTTOM
Lineal Feet: 3,012 (XX total) (minimum) (maximum)

Description of Work Area: Beginning on the south end of the culvert under St. George Road at the southeast corner of the Evansville Regional Airport property and on the east side of the Conrail RR line to Sonntag Stevens Ditch.

I, _____, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on KEIL DITCH:
Work Category: ONE: Work Description: STERILIZE DITCH BOTTOM
3,012 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)
COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

BID SCHEDULE SP-206.3
Special Provisions Project

Ditch Name: <u>KEIL DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>WATERWAY MOWING</u>
Lineal Feet: <u>3,012</u> (<u>XX</u> total) (<u> </u> minimum)	(<u> </u> maximum)

Description of Work Area: Beginning on the north side of the service road north of the Lloyd Expressway 1/4 mile east of Green River Road; thence north to Carriage House Apartments; thence west to the rear line of Eastland Place Mall behind Shoe Carnival.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>KEIL DITCH</u> :
Work Category: <u>THREE</u> : Work Description: <u>WATERWAY MOWING</u>
3,012 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-208 KOLB DITCH

Ditch Name: <u>KOLB DITCH</u>	Year: <u>1998</u>
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZING DITCH BOTTOM</u>
Lineal Feet: <u>5,593</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: Start at levee gate southeast of the intersection of Fuquay Road and Pollack Avenue; thence northwest upstream through Chickasaw Park Subdivision to I-164 right-of-way fence. Start again at upstream end of Kolb Ditch as marked on Covert Avenue; thence southeast through Eastland Estates subdivision to the lake in Audubon Estates subdivision. End of ditch at lake will be marked for viewing by the Surveyor.

The bidder shall submit a bid using Bid Schedule SP-208.1 and showing one price per lineal foot of ditch which price the bidder is willing to receive as payment for the complete sterilization of the ditch bottom as described in the General Specifications and the Special Provisions Section SP-104.01; and in accordance with all laws and regulations governing such work.

If the Bidder for sterilizing the bottom of Kolb Ditch wishes, he/she may attach a supplementary bid for the application of broadleaf herbicide and grass growth inhibitors to the waterway in accordance with the specifications in Special Provisions Category TWO using a "Blank Bid Schedule" provided at the back of this section. The effectiveness of the inhibitor will be measured by the uniformity of performance over a minimum total of 75% of the area treated wherein grass growth shall be held to no greater than half its normal height of growth. The optimum target growth height is 12 inches.

The footage which may be treated with broadleaf herbicides and growth inhibitors will be the two portions of Kolb Ditch described as agricultural fields between Pollack Avenue and Chickasaw Park subdivision (1,350 l.f.) and between Covert Avenue and Eastland Estates (1,500 l.f.) for total distance of 2,800 lineal feet.

SP-208 KOLB DITCH (CONTINUED)

Ditch Name: <u>KOLB DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>WATERWAY MOWING</u>
Lineal Feet: <u>5,593</u>	(<u> </u> total) (<u> </u> minimum) (<u> XX </u> maximum)

Description of Work Area: Start at levee gate southeast of the intersection of Fuquay Road and Pollack Avenue; thence northwest upstream through Chickasaw Park Subdivision to I-164 right-of-way fence. Start again at upstream end of Kolb Ditch as marked on Covert Avenue; thence southeast through Eastland Estates subdivision to the lake in Audubon Estates subdivision. End of ditch at lake will be marked for viewing by the Surveyor.

The Bidder shall submit a bid using Bid Schedule SP-208.3 and showing one price per lineal foot of ditch which price the Bidder is willing to receive as payment for completely mowing the described 5,593 feet of waterway and top of banks of the ditch as described in the General Specifications and Special Provisions Section SP-104.03.

The price per foot that the successful bidder enters onto the documents shall be the price used to calculate all payments for any mowing accomplished on Harper Ditch in accordance with said specifications whether as "spring mowing", "fall mowing", or "special mowing" all in accordance with SP-104.03.

If the Contractor is not able to mow the waterway without damaging crops in the agricultural fields between Chickasaw Park and Pollack Avenue, and between Covert Avenue and Eastland Estates, the unmowed portions of the ditch shall be deducted from the total payment to the Contractor at the same rate per foot bid.

"Special mowing", if ordered, will be no less than five hundred (500) lineal feet of ditch at one time.

The Bidder shall attach the Bid Schedule to a properly executed Bid Form 96.

BID SCHEDULE SP-208.1
Special Provisions Project

Ditch Name: <u>KOLB DITCH</u>	Year: <u>1998</u>
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZE DITCH BOTTOM</u>
Lineal Feet: <u>5,593</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: Start at levee gate southeast of the intersection of Fuquay Road and Pollack Avenue; thence northwest upstream through Chickasaw Park Subdivision to I-164 right-of-way fence. Start again at upstream end of Kolb Ditch as marked on Covert Avenue; thence southeast through Eastland Estates subdivision to the lake in Audubon Estates subdivision. End of ditch at lake will be marked for viewing by the Surveyor.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>KOLB DITCH:</u>
Work Category: <u>ONE:</u> Work Description: <u>STERILIZE DITCH BOTTOM</u>
5,593 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-209 SONNTAG STEVENS DITCH

Ditch Name: <u>SONNTAG STEVENS DITCH</u>	Year: <u>1998</u>
Category of Work: <u>ONE</u>	Work Description: <u>STERILIZING DITCH BOTTOM</u>
Lineal Feet: <u>10,705</u> (___ total) (___ minimum) (<u>XX</u> maximum)	

Description of Work Area: Beginning at the northwest corner of the intersection of Lynch Road and Hitch Peters Road; thence northwest and downstream approximately 3,400 feet to the Conrail rail line at Keil Ditch. Also beginning at the mouth of the north branch of Sonntag Stevens Ditch about 1,000 feet northwest of the intersection of Lynch Road and Hitch Peters Road and about 750 feet west of the rear entrance of Inland Container Corporation onto Hitch Peters Road; thence east and upstream under Hitch Peters Road; thence continuing generally east and upstream to the southwest corner of Cloverlawn Subdivision; thence east 1,100 feet to a culvert under Eastbrook Drive in front of Lloyd Whipples' house; Also beginning at the southwest corner of Cloverlawn Subdivision; thence north 660 feet to the northwest corner of Cloverlawn Subdivision; thence east 1,320 feet to a culvert under Oak Hill Road.

The Bidder shall submit a bid using Bid Schedule SP-209.1 showing one price per lineal foot which price the Bidder is willing to receive as payment for the bottom sterilization of the above described 10,705 feet of waterway as described in the General Specifications and Special Provisions covering such work.

The Bidder shall attach both Bid Schedules to a properly executed Bid Form 96.

Ditch Name: <u>SONNTAG STEVENS DITCH</u>	Year: <u>1998</u>
Category of Work: <u>TWO</u>	Work Description: <u>APPLYING BROADLEAF HERBICIDE</u>
Lineal Feet: <u>3,400</u> (___ total) (___ minimum) (<u>XX</u> maximum)	

Description of Work Area: Beginning at the northwest corner of the intersection of Lynch Road and Hitch Peters Road; thence northwest and downstream approximately 3,400 feet to the Conrail rail line at Keil Ditch.

The Bidder shall submit a bid using Bid Schedule SP-209.2 a price per lineal foot times 3,400 lineal feet for a total sum of dollars for which price the bidder is willing to complete the work according to the conditions, requirements, and other particulars as described in the Notice to Bidders, the General Specifications, and the Special Provisions with regard to the APPLICATION OF BROADLEAF HERBICIDES; and shall attach said bid schedule to a properly executed Bid Form 96.

SP-209 SONNTAG STEVENS DITCH (CONTINUED)

Ditch Name: SONNTAG STEVENS DITCH Year: 1998

Category of Work: THREE Work Description: FALL WATERWAY MOWING

Lineal Feet: 10,705 (___ total) (__ minimum) (XX maximum)

Description of Work Area: Same as above for Category ONE: ENTIRE DITCH.

The Bidder shall enter upon the Bid Schedule SP-209.3 a price per lineal foot times 10,705 lineal feet for a total sum of dollars for which price the bidder is willing to complete the work according to the conditions, requirements, and other particulars as described in the Notice to Bidders, the General Specifications, and the Special Provisions with regard to the application of FALL MOWING; and shall attach said bid schedule to a properly executed Bid Form 96.

Ditch Name: SONNTAG STEVENS DITCH Year: 1998

Category of Work: THREE "B" Work Description: SPRING WATERWAY MOWING

Lineal Feet: 4,580 (___ total) (__ minimum) (XX maximum)

Description of Work Area: "B-1" begins at a culvert in front of Lloyd Whipple's house at 4301 Clover Drive; west 1,100 feet to the southwest corner of Cloverlawn Sub; thence north 660 feet to the northwest corner of said sub; thence east 1,320 feet to Oak Hill Road. "B-2" begins at the intersection of Lynch Road and Hitch Peters Road; thence northwest 1,500 feet to the first rail crossing of the ditch for a total of the two areas of 4,580 lineal feet.

The Bidder shall enter upon the Bid Schedule SP-209.3B a price per lineal foot times 4,580 lineal feet for a total sum of dollars for which price the bidder is willing to complete the work according to the conditions, requirements, and other particulars as described in the Notice to Bidders, the General Specifications, and the Special Provisions with regard to the application of SPRING MOWING; and shall attach said bid schedule to a properly executed Bid Form 96.

The Bidder shall note that the 4,580 feet described is affected by fences, utility installations, and other restrictions; and that some hand mowing will be required to complete the work in accordance with the specifications.

BID SCHEDULE SP-209.2
Special Provisions Project

Ditch Name: SONNTAG STEVENS DITCH Year: 1998
Category of Work: TWO Work Description: BROADLEAF HERBICIDE APPLICATION
Lineal Feet: 3,400 (___ total) (___ minimum) (XX maximum)

Description of Work Area: Beginning at the northwest corner of the intersection of Lynch Road and Hitch Peters Road; thence northwest and downstream approximately 3,400 feet to the Conrail rail line at Keil Ditch.

I, _____, _____
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on SONNTAG STEVENS DITCH:
Work Category: TWO: Work Description: BROADLEAF HERBICIDE APPLICATION
3,400 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

BID SCHEDULE SP-209.3
Special Provisions Project

Ditch Name: <u>SONNTAG STEVENS DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>FALL WATERWAY MOWING</u>
Lineal Feet: <u>10,705</u>	(<u> </u> total) (<u> </u> minimum) (<u>XX</u> maximum)

Description of Work Area: ENTIRE DITCH; DESCRIBED IN SP-209.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>SONNTAG STEVENS DITCH:</u>
Work Category: <u>THREE:</u> Work Description: <u>FALL WATERWAY MOWING</u>
10,705 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____;
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

BID SCHEDULE SP-209.3B
Special Provisions Project

Ditch Name: <u>SONNTAG STEVENS DITCH</u>	Year: <u>1998</u>
Category of Work: <u>THREE</u>	Work Description: <u>SPRING WATERWAY MOWING</u>
Lineal Feet: <u>4,580</u>	(___ total) (<u>XX</u> minimum) (___ maximum)

Description of Work Area: Area "B-1" is the upper ends of Sonntag Stevens Ditch around the west, south, and north boundaries of Cloverlawn Subdivision as described on SP-209. Area "B-2" starts at the intersection of Lynch & Hitch Peters Roads then northwest 1,500 feet to the first railroad crossing.

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>SONNTAG STEVENS DITCH</u> :
Work Category: <u>THREE</u> : Work Description: <u>SPRING WATERWAY MOWING</u>
4,580 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

SP-210 POND FLAT MAIN

Ditch Name: <u>POND FLAT MAIN DITCH</u>	Year: <u>1998</u>
Category of Work: <u>FIVE</u>	Work Description: <u>SILT DIPPING/BANK RESHAPING</u>
Lineal Feet: <u>2,700</u> (<u>XX</u> total) (<u> </u> minimum)	(<u> </u> maximum)

Description of Work Area: Beginning at Nisbet Station Road and continuing south to Buente Upper Big Creek, for a distance of 2,700 feet.

The Bidder shall submit a bid using Bid Schedule SP-210.5 showing one price per lineal foot which price the Bidder is willing to receive as payment for the silt dipping and east bank re-shaping of the above described 2,700 feet of waterway as described in the General Specifications and Special Provisions covering such work.

The Bidder shall attach the Bid Schedule to a properly executed Bid Form 96.

SP-211 POND FLAT LATERAL "B"

Ditch Name: <u>POND FLAT LATERAL "B"</u>	Year: <u>1998</u>
Category of Work: <u>FIVE</u>	Work Description: <u>SILT DIPPING</u>
Lineal Feet: <u>2,797</u> (<u>XX</u> total) (<u> </u> minimum)	(<u>XX</u> maximum)

Description of Work Area: The entire drain known as Pond Flat Lateral "B".

The Bidder shall submit a bid using Bid Schedule SP-211.5 a price per lineal foot times 2,797 lineal feet for a total sum of dollars for which price the bidder is willing to complete the work according to the conditions, requirements, and other particulars as described in the Notice to Bidders, the General Specifications, and the Special Provisions with regard to the SILT DIPPING; and shall attach said bid schedule to a properly executed Bid Form 96.

**BID SCHEDULE SP-210.5
Special Provisions Project**

Ditch Name: <u>POND FLAT MAIN DITCH</u>	Year: <u>1998</u>
Category of Work: <u>FIVE</u>	Work Description: <u>SILT DIPPING/BANK RESHAPING</u>
Lineal Feet: <u>2,700</u>	(<u>XX</u> total) (<u> </u> minimum) (<u> </u> maximum)

Description of Work Area: Beginning at Nisbet Station Road and continuing south to Buente Upper Big Creek, for a distance of 2,700 feet.

I, _____, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>POND FLAT MAIN DITCH:</u>
Work Category: <u>FIVE:</u> Work Description: <u>SILT DIPPING/BANK RESHAPING</u>
2,700 lineal feet @ \$ _____ per ft. = \$ _____ total bid

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 ____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

**BID SCHEDULE SP-211.5
Special Provisions Project**

Ditch Name: <u>POND FLAT LATERAL "B"</u>	Year: <u>1998</u>
Category of Work: <u>FIVE</u>	Work Description: <u>SILT DIPPING</u>
Lineal Feet: <u>2.797</u> (<u>XX</u> total) (<u> </u> minimum) (<u>XX</u> maximum)	

Description of Work Area: The entire drain known as Pond Flat Lateral "B".

I, _____,
(type or print name) (type or print title)
representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on <u>POND FLAT LATERAL "B"</u> :	
Work Category: <u>FIVE:</u>	Work Description: <u>SILT DIPPING</u>
2,797 lineal feet @ \$ _____ per ft. = \$ _____ total bid	

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____

My Commission expires: _____
(date) Notary Public's SIGNATURE

County of Residence: _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

BID SCHEDULE BLANK
Special Provisions Project

Ditch Name: _____	Year: <u>1998</u>
Category of Work: _____	Work Description: _____
Lineal Feet: _____	(___ total) (___ minimum) (___ maximum)

Description of Work Area:

I, _____,
(type or print name) (type or print title)

representing _____
(type or print name of company, entity, or organization)

do submit the following Bid on: _____

Work Category: _____ Work Description: _____

_____ @ \$ _____ per unit = \$ _____ total bid
unit

STATE OF _____ } BY: _____
(SIGNATURE)

COUNTY OF _____ } _____
(title of person signing)

_____ being duly sworn,
(printed name of bidder or authorized representative)

deposes and says that he/she is _____
(title of person signing)

of the above _____ ; and that
(name of organization)

all the statements and representations in the foregoing bid are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19 _____.

My Commission expires: _____
(date) Notary Public's SIGNATURE

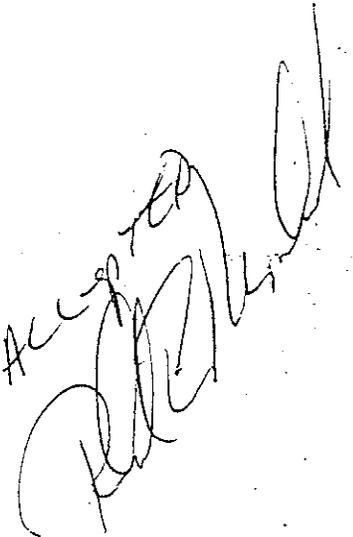
County of Residence: _____ - _____
(County) (Printed Name of Notary)

attach this page to the completed Form 96 for same bid

**1998 SPECIFICATIONS
FOR THE
MAINTENANCE OF REGULATED DRAINS
IN
VANDERBURGH COUNTY, INDIANA**

**Prepared By:
Robert W. Brenner
Vanderburgh County Surveyor**

**Adopted By:
The Vanderburgh County Drainage Board
Richard E. Mourdock, President
Bettye Lou Jerrel, Vice-President
Patrick Tuley, Member**

ACCEPTED


February 23, 1998

GENERAL SPECIFICATIONS

100.00 PURPOSE:

To remove all undesirable vegetation and loose debris from the Regulated Drains in Vanderburgh County as directed and determined by the Vanderburgh County Surveyor to facilitate proper drainage.

200.00 SPECIFICATIONS:

201.00 CLEAN, CLEAR, STERILE DITCH BOTTOMS:

The Contractor shall remove, or cause to be removed, all vegetation, loose debris, and brush from the ditch bottom. When using ground sterilants, the Contractor shall spray only the ditch bottom. No sterilants shall be sprayed, spilled, or drifted onto the side slopes of the ditch, nor outside the ditch banks.

202.00 CLEAN, CLEAR CHANNEL WITH CONTROLLED GRASS COVER:

The Contractor shall remove, or cause to be removed, all undesirable vegetation and loose debris as directed by the Vanderburgh County Surveyor within the area of the ditch banks and within an area five (5) feet outside the tops of the ditch banks.

The Contractor shall maintain these areas in such a manner as to promote the growth of desirable cover grasses.

When using herbicides or growth regulators, the contractor shall apply all chemicals in such a manner as to spray only within the ditch banks, and to a distance of five (5) feet outside the tops of the banks (see Special Provisions section for any increased pathway maintenance requirements).

The Contractor shall take care not to allow spray to drift or spill on crops, lawns, or other ground cover outside the five (5) foot limit at the top of the banks.

203.00 REMOVAL OF NOXIOUS WEEDS:

The following prohibited noxious weeds must be controlled by the Contractor if they are found within the ditch banks, or within the areas up to five (5) feet from the tops of the ditch banks:

Canada Thistle
Field Bindweed
Hoary Cress

Johnson Grass
Perennial Sowthistle

204.00 SELECTING, HANDLING, APPLYING CHEMICALS:

The Contractor shall be responsible for selecting, purchasing, shipping, storing, handling, mixing, and applying all materials required to complete the work.

205.00 OBTAINING NECESSARY LICENSES AND PERMITS:

The Contractor shall obtain all required permits and/or licenses for applying herbicides, burning debris, or other activities requiring licenses and permits.

206.00 LIABILITY INSURANCE REQUIRED:

The Contractor shall adequate liability insurance to protect the County against any and all claims that may arise as a result of the Contractor's operations.

207.00 CERTIFICATE OF INSURANCE REQUIRED:

The Contractor shall provide the Vanderburgh County Surveyor with a Certificate of Insurance naming the Vanderburgh County Surveyor, and the Vanderburgh County Drainage Board as co-insured by the Contractor's liability policy.

208.00 STATE PESTICIDE APPLICATIONS LICENSE REQUIRED:

When submitting a bid for work including the application of herbicides, the Contractor shall provide the Surveyor with a copy of the Contractor's valid Indiana State Pesticide Applicator's License for working in regulated drain right-of-way.

209.00 LABEL SPECIMENS REQUIRED:

The Contractor shall submit the names of all chemicals to be used, with label specimens, no less than fourteen (14) days prior to any chemical application.

210.00 WORK LOG REQUIRED:

The Contractor shall maintain a log of spraying activity containing the following information:

210.01 Ditch Name	210.05 Start & Stop Work Times
210.02 Spray Date	210.06 Begin & End Work Locations
210.03 Wind Speed & Direction	210.07 Applicator's Name(s)
210.04 Temperature(s)	210.08 Operator's Name(s)

The "Work Log" shall be surrendered to the Vanderburgh County Surveyor upon completion of the work; and shall be available for inspection by the Surveyor at all times during the Contract period.

211.00 SPRAYING PROHIBITED ON WINDY DAYS:

No spraying shall be done when the wind speed is in excess of eight (8) mile per hour.

212.00 CUTTING WEEDS TO ACHIEVE KILL PERCENTAGE:

If the Vanderburgh County Surveyor determines that chemical control of vegetation is not sufficient to achieve the required kill percentage, the Contractor shall cut the vegetation and remove the clippings and debris to achieve the required kill.

213.00 LIMITED CONTROLLED BURNING:

Controlled burning may be used for removal and disposal of clippings after obtaining proper permits, variances, and permissions, including those from the Environmental Protection Agency, Room 250 in the Federal Building at 101 N.W. Martin Luther King Blvd. Their phone number at this printing is 426-5597.

214.00 CLIPPING AND DEBRIS REMOVAL REQUIRED:

The Contractor shall remove all clippings and loose debris in a timely fashion to avoid material washing downstream.

214.01 All loose debris which can be lifted out of the ditch using on-site manpower and equipment shall be removed as part of the Work.

214.02 For debris too large to be removed by on-site manpower, tools, and equipment, the Contractor shall notify the Surveyor immediately to arrange additional work.

214.03 All loose material generated by work of the Contractor that later accumulates and blocks the flow of the ditch will be removed at the Contractor's expense.

Debris that has been chipped and evenly spread outside the channel is exempted from 214.03.

215.00 CHEMICAL APPLICATION DATES:

The Contractor shall make all chemical applications between April 15th and June 15th, unless product labeling requires otherwise (applications of Rodeo for bottom sterilization may begin July 1st.) Contractor shall be responsible for submitting alternate application schedule to Surveyor.

Any chemical applications not falling within the above dates should be discussed with and agreed upon by the Vanderburgh County Surveyor when submitting labeling and chemical information.

216.00 MOWING, AND DEBRIS REMOVAL DATES:

216.01 The Contractor shall complete all mowing, cutting, burning, and loose debris removal between August 15th and November 15th on ditches that require only one Summer/Fall mowing.

216.02 Ditches that require an additional Spring mowing shall be mowed after sufficient growth of twelve (12) inches height or greater has occurred, and be completed by July 15th.

216.03 The Contractor shall contact the Vanderburgh County Surveyor prior to any mowing activity. Crop damage notification required prior to mowing.

217.00 LIMITED TIME EXTENSION ALLOWED:

Extensions beyond the time schedules outlined above will be granted by the Vanderburgh County only for unusual weather conditions, product labeling requirements, or special circumstances.

218.00 FINAL ACCEPTABILITY DETERMINED BY SURVEYOR:

The final determination of the acceptability of the Contractor's work shall be made by the Vanderburgh County Surveyor; and:

No payments will be made to the Contractor until the Vanderburgh County Surveyor approves the work.

219.00 PAYMENTS FOR APPROVED WORK:

All payments for approved work shall be made by warrants approved by the County Auditor subsequent to the Contractor's submittal of claims to the Drainage Board made through the Surveyor on prescribed forms available from the Auditor or the Surveyor.

After the work is completed a minimum (15) percent retainage will be withheld from payments due to the Contractor. This is required by Indiana State Statute. The retainage will be paid after the Contractor certifies that all expenses incurred by the Contractor in the performance of the maintenance of the legal have been paid.

300.00 DEFINITIONS:

301.00 VEGETATION: Shall mean all plant life or total plant cover found within the work area.

302.00 DITCH BOTTOM: The area from the toe of one ditch bank across the flow line to the toe of the opposite ditch bank; or the area which is generally submerged, wet, or damp during low water conditions.

303.00 DESIRABLE COVER GRASSES: Shall include, but are not limited to, all fescue, perennial rye, wheat, timothy, bluegrass; or other vegetation designated as desirable by the Vanderburgh County Surveyor.

304.00 UNDESIRABLE VEGETATION: Shall include, but is not limited to, broadleaf weeds, noxious weeds, cattails, reeds, tree sprouts, bushes, bamboo, cane, vines, or other vegetation designated as undesirable by the Vanderburgh County Surveyor.

305.00 BRUSH: Shall include all vegetation, other than "desirable cover grasses", and less than eight (8) feet in height from the point of emergence.

306.00 LOOSE DEBRIS: Shall include, but are not limited to, all clipping and other waste generated by the Contractor along with any other loose materials encountered by the Contractor.

400.00 GENERAL NOTES:

* *The Indiana Drainage Statues provide a right-of-entry upon all land alongside Regulated Drains for the Drains for the purpose maintaining the drains.

* The statute provides that the landowner may use the land so long as such use does not interfere with the purposes of the drain.

* The rights-of-entry for legal drains in Vanderburgh County are:

1. Urban drains, a minimum of twenty-five (25) feet from the top of each bank.

2. Rural drains, a maximum of seventy-five (75) feet from the top of each bank.

* If any of the work will damage crops, gardens, trees, or other property, the Contractor must notify the Vanderburgh County Surveyor quickly enough that the property owner can be notified no less than twenty-one (21) days prior to the contemplated damage.

* The Contractor shall determine immediately after the Contract is awarded how much distance from the top of the ditch bank is needed to accomplish the Work and notify the property owner and the Vanderburgh County Surveyor of this measurement. The property owner may then set back his crops to avoid damage by the Contractor's equipment.

NOTICE TO BIDDERS

This Instrument shall serve as Public Notice that Sealed Proposals for the maintenance of Regulated Drains in Vanderburgh County, Indiana by mowing, herbicide application, excavation, brush cutting and chipping, and other related activities shall be received in Room 208 of the Civic Center by the Vanderburgh County Auditor until 4:30 P.M. local time on Monday, March 23, 1998, at which time proposals received shall be delivered to the Vanderburgh County Drainage Board, opened and read aloud in the County Commissioners' Hearing Room. Any proposal received unsealed or past the designated time shall be returned to the bidder unopened.

Proposals must be submitted on approved forms, properly executed, and accompanied by a Certified Check, Cashier's Check, or other approved security in the amount of five (5) percent of the total bid.

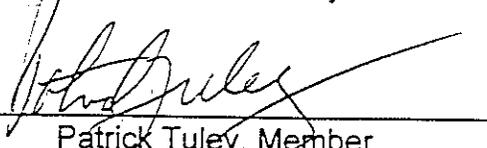
Proposals and securities shall be sealed together in an envelope bearing the name and address of the bidder, and the title of the work; and all prepared according to such particulars as shall be described in this document and in other documents available from the Vanderburgh County Surveyor; Room 325 Civic Center; One Martin Luther King, Jr. Blvd.; Evansville, Indiana, 47708; or by calling 812-435-5210, or 812-435-5117.

Improperly completed proposals may be disregarded by the Board. Successful bidders shall sign contracts with the Board within five (5) days of the award. A performance bond may be required of the Contractor by the Board. The bid bonds of the unsuccessful bidders will be returned within thirty (30) days of the awards.

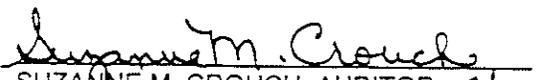
APPROVED BY THE VANDERBURGH COUNTY DRAINAGE BOARD:


Richard E. Mourdock, President


Betty Lou Jerrel, Vice President


Patrick Tuley, Member

ATTEST:


SUZANNE M. CROUCH, AUDITOR

2/23/98
(DATE)

CERTIFIED:


ROBERT W. BRENNER, SURVEYOR

2/23/98
(DATE)

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

BEFORE THE VANDERBURGH COUNTY DRAINAGE BOARD

IN RE: PETITION OF THOMAS AND ROSE HEERDINK
and WILLIAM AND WILMA ROSE
AT 20 WEST MILL ROAD

ORDER

Thomas and Rose Heerdink and William and Wilma Rose filed a Joint Petition with this Board on August 26, 1996, concerning an alleged drainage obstruction in a ditch located at 20 West Mill Road in Evansville, Indiana, that property being owned by Catherine A. Rasche ("Respondent"). A hearing was conducted by this Board on November 25, 1996. At the conclusion of the hearing, this Board held that Respondent intentionally caused the obstruction of the ditch and ordered that Respondent remove the obstruction at Respondent's expense.

On December 23, 1996, Respondent filed a Verified Petition for Judicial Review; Complaint for Declaratory Judgment and Inverse Condemnation against the Board and the Board of Commissioners of Vanderburgh County, Indiana ("County") in the Vanderburgh Superior Court. Thereafter, the cause was venued to the Gibson Circuit Court.

On May 2, 1997, Respondent filed an Amended Verified Complaint for Judicial Review; Complaint of Declaratory Judgment and Inverse Condemnation with the Gibson Circuit Court.

A trial was held by the Gibson Circuit Court on August 6, 1997. Thereafter, after considering the arguments of counsel for the parties along with the filed briefs, proposed findings of fact and conclusions of law, the Gibson Circuit Court affirmed the November 25, 1996 order of the Board and entered judgment in favor of the County and against Respondent on her Amended Complaint. Further, the Gibson Circuit Court remanded this matter to the Board for further proceedings in view of such judgment. A copy of the Gibson Circuit Court's decision is attached hereto as Exhibit "A".

Accordingly, as previously ordered by this Board, Respondent is hereby directed to remove the obstruction from the ditch at her own expense.

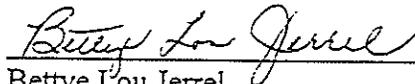
If the obstruction is not removed by Respondent within 45 days from the date of this Order, Respondent is hereby notified to appear before this Board on April 27, 1998 at 6:00 p.m. in Room 307 of the Civic Center Complex, Evansville, Indiana 47708 regarding further action to be considered by the Board in connection with this matter.

Dated this 23rd day of February, 1998.

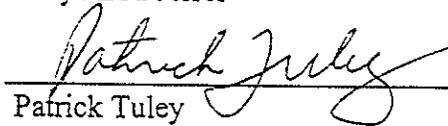
VANDEBURGH COUNTY DRAINAGE
BOARD



Richard E. Mourdock



Betty Lou Jerrel



Patrick Tuley

DISTRIBUTION:

Leslie C. Shively, Esq.

Thomas and Rose Heerdink

William and Wilma Rose

Catherine A. Rasche

STATE OF INDIANA)
)
COUNTY OF GIBSON)

SS:

IN THE GIBSON CIRCUIT COURT

CATHERINE A. RASCHE)
Petitioner,)

vs.)

VANDEBURGH COUNTY)
DRAINAGE BOARD, and)
BOARD OF COUNTY)
COMMISSIONERS OF)
VANDEBURGH 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.

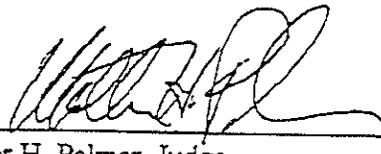
- 13. Under I.C. 36-9-27.4-26-3, there has been no showing that (1) the drainage Board acted without authority; (2) the drainage Board erred in making the findings necessary under the statute; (3) or the drainage Board did not follow the procedures required by I.C. 36-9-27.4-1 et seq.

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

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Ralph R. Rexing
(Signature in Ink)
representing RR REXING FARM INC., and presently
under contract with the Vanderburgh County Drainage Board to perform
certain maintenance on POWD FLAT LAT. "B", 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: POWD FLAT LAT. "B" # 234-031

CONTRACTOR: _____ VENDOR # 7325

CONTRACT # _____ AND/OR ACCOUNT # 234-031

ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE Nov 29, 1997
INSPECTION DATE _____

WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Ralph W. Gunnerson 2-23-98
VANDERSBURGH COUNTY SURVEYOR DATE

**CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, John A Rollett
(printed name of representative)

representing Union Township Ditch Association, 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.

John A Rollett - representing Union Township Ditch Association
(signature in ink)

NAME OF DRAIN: EDMOND DITCH ACCOUNT #: 234-016

CONTRACTOR: Union Township Ditch Association VENDOR #: 1259

ANNUAL MAINTENANCE COMPLETION DATE: DEC 9, 1997
 ADDITIONAL MAINTENANCE INSPECTION DATE: DEC 17, 1997
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: _____

Robert W. Brenner
Robert W. Brenner, Vanderburgh County Surveyor

2-23-98
Date

Warrant No. _____

Claim No. _____

Date _____

Wayne Township Pict Assoc.

Vendor No. 1259

\$ 69.28

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name EMERALD PICT

Account No. 234-016

Allowed 2-23 1998

In the sum of \$ _____

Beverly J. DeWitt
Robert J. DeWitt
Robert J. DeWitt
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

2-23 98

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-EM-16-11</u>		<u>Dec 9 1997</u>	<u>234-016</u>	<u>\$ 69.28</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 69.28</u>

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Ralph R. Reising
(Signature in Ink)
representing RR LEXING FARM INC., and presently
under contract with the Vanderburgh County Drainage Board to perform
certain maintenance on POWD FLAT LAT. "A", 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: POWD FLAT LAT. "A"

234-030

CONTRACTOR: _____

VENDOR # 7325

CONTRACT # _____

AND/OR ACCOUNT # 234-030

- ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE Nov 29, 1997
INSPECTION DATE Dec 1, 1997

- WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Ralph W. Brennan
VANDERBURGH COUNTY SURVEYOR

2-23-98

DATE

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
BARA'S CREEK Ditch, a legal drain
in Vanderburgh County, Indiana, was completed on
FEB 4, 1998, and was inspected by
our staff on FEB 16, 1998, 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

2-23-98
Date

Additional Comments:

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN
IN VANDERBURGH COUNTY, INDIANA

By this Instrument, I, John A Rollett
(printed name of representative)

representing Union Township Ditch Association, 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.

John A Rollett - representing Union Township Ditch Association
(signature in ink)

NAME OF DRAIN: KAMP DITCH ACCOUNT #: 234-021

CONTRACTOR: Union Township Ditch Association VENDOR #: 1259

ANNUAL MAINTENANCE COMPLETION DATE: Dec 8, 1997
 ADDITIONAL MAINTENANCE INSPECTION DATE: Dec 17, 1997
 EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: _____

Robert W. Brenner
Robert W. Brenner, Vanderburgh County Surveyor

2-23-98
Date

Warrant No. _____

Claim No. _____

Date _____

MOUND TOWNSHIP DITCH ASSES

Vendor No. 1859

\$ 50.22

ON ACCOUNT OF APPROPRIATION

Dept. Fund Name KEMP DITCH

Account No. 234-021

Allowed 2-23 1998

In the sum of \$ _____

[Signature]
[Signature]
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

2-23-98 [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-FM-21-15</u>	_____	<u>DEC 9, 1997</u>	<u>234-021</u>	<u>\$ 50.22</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL				<u>\$ 50.22</u>

**CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN
IN VANDERBURGH COUNTY, INDIANA**

By this Instrument, I, John A Rollett
(printed name of representative)

representing Union Township Ditch Association, 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.

John A Rollett - representing Union Township Ditch Association
(signature in ink)

NAME OF DRAIN: HELERICH-HAPPE DITCH ACCOUNT #: 234-018
CONTRACTOR: Union Township Ditch Association VENDOR #: 1259

ANNUAL MAINTENANCE

COMPLETION DATE: DEC. 9, 1997

ADDITIONAL MAINTENANCE

INSPECTION DATE: DEC. 17, 1997

EMERGENCY MAINTENANCE

WORK IS APPROVED

WORK IS NOT APPROVED: COMMENTS: _____

Robert W. Brenner
Robert W. Brenner, Vanderburgh County Surveyor

2-23-98
Date

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Ralph R. Rexing
(Signature in Ink)

representing RR REXING FARM INC., and presently
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on POOD FLAT LAT. "D", 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: POOD FLAT LAT. "D" # 234-033

CONTRACTOR: _____ VENDOR # 7325

CONTRACT # _____ AND/OR ACCOUNT # 234-033

ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE Nov 29, 1997
INSPECTION DATE DEC 2, 1997

WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Ralph W. Gammell
VANDERBURGH COUNTY SURVEYOR

2-23-98
DATE

**Vanderburgh County
Drainage Board Meeting
March 23, 1998**

The Vanderburgh County Drainage Board met in session this 23rd day of March in the Commissioners' Hearing Room of the Civic Center Complex at 6:40 p.m. with president Richard Mourdock presiding.

Call to Order

President Mourdock: I'd like to call the Vanderburgh County Drainage Board to order. Just by way of introduction, since we've got a lot of new faces in the audience tonight at the far right is County Attorney, Joe Harrison, Jr., then we have County Commissioner, Pat Tuley, County Commissioner, Bettye Lou Jerrel, I'm Richard Mourdock, and at my far left is B.J. Farrell who is our recording secretary. The Drainage Board as you may be aware solely consists of the three County Commissioners, so we get to do double duty tonight as Commissioners and also as the Drainage Board.

Approval of minutes

President Mourdock: The first thing then, we have on our agenda is to approve the minutes from the last meeting of February 23, 1997.

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Receive and open bids for maintenance of drains

President Mourdock: The second thing is to receive some bids regarding maintenance for drainage ways. Bill Jeffers, what do you have for us in that regard? And Bill, if you don't know this, is the Deputy Surveyor.

Bill Jeffers: Did the Auditor's Office bring those bids up?

President Mourdock: Yeah.

Bill Jeffers: And then the Surveyor's Office would recommend that the bids be opened and...by the Attorney as usual and then he will examine them to make sure they're submitted in proper form.

President Mourdock: Okay, is there a motion then to open bids for the maintenance of drainage ways?

Commissioner Jerrel: I move that we open the bids for the maintenance of drains.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Clear Creek Village Section 2 (Residential) Sub - Final drainage plan

President Mourdock: The next on our list is to start through the Subdivision Drainage Plans. The first one being Clear Creek Village Section 2, a residential subdivision for final approval.

Bill Jeffers: Clear Creek Village Section 2 is located on...north of...on the north side of Mt. Pleasant Road, immediately across the road from Copperfield, about a one quarter mile west of U.S. 41, and maybe half a mile east of Old State Road. Section 2 is a 40 lot addition to Clear Creek Village Section 1. Section 2 is in the northeast corner of the 365 lot development. It has already received preliminary approval--

Commissioner Tuley: Are you writing that down?

Bill Jeffers: --along with all 368 lots, I believe. This final plan shows...is outlined on your paper by a yellow boundary. The orange boundary is what will probably come in next month as Clear Creek 3. All the details required to upgrade the preliminary plan for these 40 lots to a final plan have been submitted and reviewed by our office. The detention lake that's shaded in blue, along the east boundary is on the rear lots...on the rear line of those lots and then to the east of that is CSX Railroad. This phase will create a...the remainder of the basin will be excavated and create storage for this phase, plus the remainder of the 368 lot project. It also...in our office we have new flood protection grades for the homes in this phase that were developed from a study of the watercourse along the north line of this property. Jim Morley's office restudied that because we felt that this large of a lake might increase the elevation of a 100 year flood and they have raised the finished floor elevations accordingly, and our office recommends approval of the final plan for this 40 lot addition known as Clear Creek Village Section 2.

President Mourdock: Any questions for Bill from the Board? Anyone from the audience to comment? If I can't see you back there, you need to stand up and shout. Okay.

Commissioner Jerrel: I'd--

Commissioner Tuley: I would...I'm sorry.

Commissioner Jerrel: Go ahead. I'd like to move approval of...final approval of the Clear Creek Village Section 2, residential subdivision.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Shanes Pointe Subdivision (Residential) - Preliminary drainage plan

President Mourdock: The next on our list, the Shanes Pointe Subdivision.

Vanderburgh County
Drainage board
March 23, 1998

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Bill Jeffers: Shanes Pointe Subdivision is an eight lot residential subdivision. It's in the southeast corner of the intersection of Upper Mt. Vernon and Red Bank Roads. All eight lots are in the floodplain or portions of them are in the floodplain. So, this plan shows you the finished floor elevation or the flood protection grade required by the Building Commissioner. It's on the plat...on this drawing and it will appear on the plat. Each lot fronts on Upper Mt. Vernon Road, and access to the lots will be by shared driveways to minimize the number of entrances onto the road and to minimize the number of pipes that will have to be placed in the county side ditch. A long narrow swale runs across the back of the entire project, and it's shaded in blue there, and it gathers all the runoff from the back of the houses and conveys it to the roadside ditch along the east side of Red Bank. It flows to the west to Red Bank, and then it's a controlled discharge pipe that reduces the flow to the predevelopment rate, and when it's discharged into the roadside ditch then it flows south into Carpenter Creek which is along the south boundary of the project. All the details required for a preliminary plan, and the calculations, and so forth have been submitted to the Vanderburgh County Surveyor's Office and were reviewed by our staff and found to be in compliance and the Vanderburgh County Surveyor recommends approval of the preliminary plan for Shanes Pointe Subdivision.

President Mourdock: Bill, am I looking at this correctly? You said that all eight are in the floodplain and originally, as I was looking at that, I thought that was on this side, but the way you've drawn the arrows, several of these lots are in the floodplain in their entirety, is that right?

Bill Jeffers: Two of them.

President Mourdock: Right, yeah--

Bill Jeffers: On the--

President Mourdock: --these two--

Bill Jeffers: Those two are entirely--

Commissioner Jerrel: And that's almost all the way.

Bill Jeffers: That's essentially everything...any house would be in the floodplain.

Commissioner Jerrel: Uh-uh.

Bill Jeffers: And then the remaining five lots may be able to find a spot in there out of the floodplain for a house. But, in Indiana, you are allowed to build a dwelling in the floodplain so long as it's two feet above the 100 year flood elevation, and that two feet above the 100 year flood elevation is known as a flood protection grade and it's shown on the drawing, and will be on the plat so that the purchaser of each lot will know--

President Mourdock: Okay.

Bill Jeffers: --how much fill will be required to raise the

house above the--

President Mourdock: Right.

Bill Jeffers: --flood elevation.

President Mourdock: Any other questions for Bill? Pat?

Commissioner Tuley: No, I'm sorry.

President Mourdock: Any questions from the audience regarding Shanes Pointe Subdivision, residential, preliminary?

Commissioner Jerrel: I'll move approval of--

Unidentified: Pardon me.

Commissioner Jerrel: --preliminary, excuse me.

Unidentified: Pardon me.

President Mourdock: Sure, yes, you need to come forward sir. I forgot to mention at the outset, our sound system isn't very good, so if you're going to speak we ask you to come to the mike, and state your name and address please.

Robert Norrick: My name is Robert Norrick, 4619 Upper Mt. Vernon Road. Uh, my property borders this proposed subdivision, across the road. Uh, what I was...am concerned about is the fill that would be necessary for getting it above the floodplain, and what it will do to raising the floodplain, or the water level if they raise and fill the portion of this ground?

President Mourdock: Okay, good question. The plans that we have in front of us don't show anything specifically for fill, as to how much would be added. I'm going to speculate, and understand that's purely what it is, a speculation. I would guess as a residential, the only thing that would be filled would be the actual floor level for a specific house, more than likely.

Bill Jeffers: And the garage.

President Mourdock: And the garage, yeah. The law that Bill was quoting from a minute ago says that the lower most floor must be two feet above the flood level.

Robert Norrick: The specs on the...on the notification that I got, I could not read the...no way.

President Mourdock: Okay.

Robert Norrick: I would like a copy of those.

President Mourdock: Sure.

Commissioner Jerrel: Bill, could you come up and see what Mr. Norrick received and...so that we can--

President Mourdock: While he's looking, let me ask a question as

**Vanderburgh County
Drainage board
March 23, 1998**

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well, Bill. If they do any filling out there beyond that, that's required to put in a house, is that something they have to do through the Corp of Engineers with a 404 permit?

Bill Jeffers: Not unless they fill in the floodway.

President Mourdock: Ah, okay.

Bill Jeffers: Filling in the floodplain is allowed in the state of Indiana. Are you talking about this?

Robert Norrick: I can't read this.

Bill Jeffers: Oh, this is a reduced copy that they mailed each of the abutting property owners of the plat that will go to Area Plan Commission, and the text obviously is so small that I can't read it either.

Commissioner Jerrel: Do you have a copy of that?

Bill Jeffers: Mr. Morley, did you happen to bring a copy of the full size plat?

Commissioner Jerrel: I thought we ought to go make a copy...if we can enlarge it for Mr. Norrick--

Bill Jeffers: I would be...sure.

Commissioner Jerrel: I'd like to have it.

Bill Jeffers: I could do that.

Robert Norrick: I'm uninformed.

Commissioner Jerrel: Yeah, and I can see why. I couldn't read it either.

Bill Jeffers: You don't have a plat with the language? He's talking about all this language here.

Unidentified: I don't think so.

Bill Jeffers: I can blow that up. But, I just wanted to see if he had the original copy.

Robert Norrick: Sure.

Bill Jeffers: This is like what's called the owner's certificate. It just tells what each easement is for and who's responsible for those.

Robert Norrick: I tried it with a magnifying glass and it didn't do very good.

Bill Jeffers: Is...could you ask if there was anyone else that has a comment? I'll run down to the office and blow this up.

President Mourdock: Okay, is there a question? Anyone else wishing to comment about--

Robert Norrick: Thank you.

President Mourdock: --the Shanes Pointe Subdivision?

Commissioner Jerrel: Okay, we'll get you one.

President Mourdock: Yeah, we will get you a copy, Mr. Norrick. Well, we will take a brief break. Okay, we have before us then on preliminary plan, the Shanes Pointe Subdivision that's been recommended for approval as a preliminary, from the Surveyor's Office. Is there a motion to that effect?

Commissioner Jerrel: I so move.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Breckenridge (Residential) Subdivision - Final drainage plan

President Mourdock: Next on our list is Breckenridge Residential Subdivision for final approval.

Shanes Pointe Subdivision (Residential) - Continued

Unidentified: Was that approved?

Commissioner Jerrel: Yes.

Commissioner Tuley: On preliminary.

Commissioner Jerrel: Uh-huh, yes.

Unidentified: Some of us wanted to speak on that, Mr. Mourdock.

President Mourdock: Oh!

Commissioner Tuley: Well, we asked.

President Mourdock: Yeah, I'm sorry. I had asked and didn't see anyone else.

Unidentified: We just wanted to take a few minutes and read here.

President Mourdock: That's quite...come forward please. And again, that was just a preliminary approval. So, it still needs to come back to us but your comments are certainly welcome. I apologize, I didn't see you wave.

Helen Norrick: I'm Helen Norrick, 4619 Upper Mt. Vernon Road. We have a ditch there that I'm not clear of the name. The one that runs...creek, I'm sorry--

Commissioner Jerrel: Carpenter.

President Mourdock: Carpenter, I think.

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Helen Norrick: Is that the one that crosses Upper Mt. Vernon Road? Or the one on the south?

Commissioner Jerrel: Let's get the--

Bill Jeffers: The one...the one along the south line of this project is the main branch of Carpenter Creek and the one that crosses Mt. Vernon Road is the north branch of Carpenter Creek.

Helen Norrick: There's five...six houses in that area from Carpenter Creek...south Carpenter Creek, and we are the fourth one, and when we get just a small rain this Carpenter Creek overflows all the way up to our driveway. The house next door to us had a problem and he couldn't be here tonight but he has photographs and information from the agriculture. There's a farm on the other side of the ditch.

President Mourdock: Is that the Elliott's?

Helen Norrick: No.

President Mourdock: Oh, okay.

Helen Norrick: That's on the other side. The Elliotts have water in their basement. The Daubs have water in their basement. We don't have a basement so, that's why we don't have water in our basement, and the people in the second house are bothered with water. The people in the first house next to Carpenter Ditch, their land adjoins that and they're backed up with water, and there's sometimes almost six to eight inches of water through there for the school buses and traffic lined up on that road, and it lines up all the way to Red Bank. We realize you can't stop progress. We're not against the subdivision, we're...cause that's progress. Maybe we don't like it but that's progress. But, what we're against is the water and the way the situation is. And we feel that the fill is just going to make it worse.

President Mourdock: Okay.

Commissioner Jerrel: Bill, could you give us a little...I see where...Mr. and Mrs. Norrick--

Helen Norrick: Thanks.

President Mourdock: Thank you.

Commissioner Jerrel: --want to come look here, so when I ask the question--

Helen Norrick: (Inaudible)

Bill Jeffers: Well, here you are. There's your property. Alright, and the creek--

President Mourdock: This is Upper Mt. Vernon Road. Here's the Elliotts. Here's the Daubs.

Helen Norrick: Okay.

Commissioner Jerrel: And the other farm is over here.

Helen Norrick: No, we have a house here that is Greg, I think, I can't think of his last name. The next ones are Scheus--

Commissioner Jerrel: Uh-huh.

Helen Norrick: --and there's a house here.

Commissioner Jerrel: Uh-huh.

Helen Norrick: We've lived there five years, but to tell you the truth, I can't remember names.

Commissioner Jerrel: Okay.

Helen Norrick: Then this creek that I'm talking about runs here, and then here's the farm right here. When there was a tree down in this ditch, we liked to never got the County out there to clean that out, and if...it's a hazard, that's what this is--

Commissioner Jerrel: Sure.

Helen Norrick: I said something about that narrow road through there, we'd have a wreck at Red Bank--

Commissioner Tuley: You had one tonight.

Helen Norrick: Yeah, we had one Saturday night.

Commissioner Tuley: Yeah.

Helen Norrick: That road is too narrow. Something needs to be done. Like I said we're not trying to stop progress, we're trying to--

Commissioner Jerrel: Sure. I have a question, Bill. Are the opening of bids...is Carpenter Creek included in any cleanup?

President Mourdock: It's not a legal drain.

Commissioner Jerrel: It's not a legal drain?

Bill Jeffers: No, ma'am.

Commissioner Jerrel: Okay, so when you know that something is in Carpenter Creek...who takes care of Carpenter Creek?

Bill Jeffers: The individual private property owners--

President Mourdock: The property owners.

Bill Jeffers: --on whose land Carpenter Creek flows.

Helen Norrick: I didn't know that a creek could be owned by anybody, but that's how much I know about it.

Commissioner Jerrel: Well, I'm asking--

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Helen Norrick: But, the farmer...I had heard that the farmer stopped it up one time that caused a backup. Now, that's just hearsay, I don't know, I don't have the details.

Bill Jeffers: Our office received a complaint to that nature from one of the property owners who said that adversely affected his land, and his house and I told him that he could go through the obstruction removal process by filing a petition with us, and I didn't hear anything further, so he may have talked to the...I advised him to first talk to the property owner about the problem, and apparently they worked it out.

Helen Norrick: I don't know the outcome of that.

Commissioner Jerrel: Well, let us very quickly tell you what someone can do. Let's say somebody puts something in that creek and stops it up. The person that's property is there, that the creek runs through their property, am I correct?

Bill Jeffers: Yes, ma'am.

Commissioner Jerrel: Then, they're the ones that are responsible for removing it, and if they don't remove it, then you, or anyone else that's affected by it have the right to come down here and petition, and there is a deposit that you have to put up and then we hold a hearing, and we can force them to remove that obstruction and clean it up.

Helen Norrick: Well, like I said, when it was just a tree fell in, and I guess they file that with the insurance as an act of nature, an act of god whatever, we liked to never got anybody out there to clean it up. When the water crosses the ditches and goes up on S.I.G.E.C.O. property, they've had barricades quite a bit, and it goes almost to Red Bank Road. That field where they're talking about building, they haven't even farmed it in years because it's flooded.

Commissioner Jerrel: Well, it is a flood...I mean this whole area is a floodplain. Is their property also in the floodplain?

Bill Jeffers: I'm not sure, I'd have to look at the insurance panel to determine which ones are and which ones aren't. But, it appears from that, that they would most likely be.

Commissioner Jerrel: But, she'd be in the floodplain--

Bill Jeffers: She's absolutely right. We have responded to complaints in the past. Several times. You can check...our office has, and you can also check the Highway Department's barricade crew as to how often they have set barricades at that location. But, I have personally viewed water over the top of Upper Mt. Vernon Road, frequently, and it's a combination of undersized pipes and ditches that are partially obstructed by private property owners allowing trees to grow up in them.

Helen Norrick: Well, I mean, it's the west side, I mean, everybody knows the west for its hills, and we've got hills that are behind us that drains down and that all hits the roads.

Commissioner Jerrel: Uh-huh.

Helen Norrick: I'll sit down, and I'll thank you. I'll let some of the other neighbors tell you more.

Commissioner Jerrel: Okay, alright.

President Mourdock: Okay.

Bill Jeffers: I might say though that Carpenter Creek was a regulated drain prior to 1966. The property owners in that watershed at...during the change of statute when they had public hearings down here all during 1965, were informed that to continue to maintain it as a regulated drain the property owners would have to contribute an assessment to the account to maintain it and they chose to petition the County Commissioners to abandon it as a regulated drain and turn it back over to the private property owners for maintenance, and that's been 38 years of tree growth that hasn't been cleared on an annual basis, like these bids over here allow us to clear other ditches. So, that's the problem, and what she's saying is...I can document that it's true.

Don Scheu: I'm Don Scheu. We live at 4607 Upper Mt. Vernon Road. That ditch is next to our property--

Commissioner Jerrel: Uh-huh.

Don Scheu: --part of it, and the main reason that ditch gets clogged up is, there is two culverts there. Instead of being one culvert wherever they can go through it, there's two and it hangs up in the middle. That's been a problem for...well, we've been there 35...since 1965.

Commissioner Jerrel: Okay, just so that I'm clear--

Don Scheu: Uh-huh.

Commissioner Jerrel: --and you're clear on what he said that the culverts are whose responsibility?

President Mourdock: I think you are talking about the culvert under the road?

Commissioner Jerrel: Under the road?

Don Scheu: Under the road, yes.

Bill Jeffers: This particular site is also one of the very reasons why our office has always recommended to your Board and to the County Commissioners when we maintained pipes that we not install twin pipes.

Don Scheu: Right.

Bill Jeffers: They do hang up on the diaphragm in the middle there. Trash hangs up every time it rains hard, and partially blocks the opening, and also causes silt to build up in which ever pipe has a slower velocity and...from the, you know...the

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bridge fund is available for replacement of any large culvert structure under a county accepted roadway, and the responsibility for that would be...the County Engineer would determine when to replace it and a job that size would probably take a private contract to replace that structure with say a large box culvert, or one of those simple arches that have done so well.

Commissioner Jerrel: What is the official address of where that is? It's Upper Mt. Vernon.

Don Scheu: It's 4601, I think. It's the property next to us, which is right on it...right next to the ditch, and ours is 4607.

Bill Jeffers: It's 4601.

Don Scheu: Okay. It's east of that.

Commissioner Jerrel: Okay.

Don Scheu: I do clear out ours frequently. We've got property behind our property on 4607, we've got another acre behind it, and I do clean that creek, that part of it, I don't.

Bill Jeffers: Oh, I'm not saying every--

Don Scheu: Right.

Bill Jeffers: --property owner fails to clean, it's--

Don Scheu: Well, it does clean up.

Bill Jeffers: --just that enough of them don't clean it that it causes a problem for the folks--

Don Scheu: Sure.

Bill Jeffers: --that do.

Commissioner Jerrel: We need to have John just look at that and see if...we'll have our engineer--

Don Scheu: Okay, that's what I want--

Commissioner Jerrel: --look at it...right.

Don Scheu: Okay.

President Mourdock: Thank you, Mr. Scheu.

Pat Burch: Hi, my name is Pat Burch, I live at 815 North Red Bank Road. My concerns...I was just wanting to know how...whenever they fill this, it might affect the creek along my house there. I mean, I don't seem to have generally a lot of problems, I've only lived there three years. One of the big rains we did have though, after I did make my way home, I couldn't get across my own driveway. I had to park across the street and waded through water to my knees, across my own

driveway. So, I'm wondering, you know, if you put fill there and we're getting extra water in this creek if it's going to make a difference there?

President Mourdock: Did I understand, you live off Red Bank?

Commissioner Tuley: On Red Bank.

Pat Burch: Yes, sir. I live on Red Bank.

President Mourdock: Okay.

Pat Burch: Right across by the railroad tracks, that show you--

President Mourdock: Okay. I'll turn that one over to our technical expert.

Bill Jeffers: The federal government and the state of Indiana allows fill in the floodplain so long as it does not raise the elevation of a 100 year flood greater than 15 hundredths of a foot, which is approximately...a little...just a little less than two inches. Typically, a project that would only have eight homes, and would only require like a low pyramid shape mound just to build the house on couldn't possible raise the floodplain more than a fraction of an inch. This watershed area above here is probably two or three square miles, and there's no way that eight homes could displace enough water to raise the elevation more than a fraction of an inch.

President Mourdock: Would it be safe to assume that the condition of the drainage way through Carpenter Creek would affect where the water goes more than the fill of those eight houses?

Bill Jeffers: Absolutely.

Pat Burch: Okay, cause in my creek, I didn't even know it was Carpenter Creek, I didn't know the name of it. So, you're saying it's not--

Bill Jeffers: The one that runs along the railroad track and it runs all the way up to Diefenbach--

Pat Burch: That's--

Bill Jeffers: --that's the main Carpenter...that's what's considered the main branch of Carpenter Creek.

Pat Burch: Okay.

Bill Jeffers: And then the one that runs up next to this gentleman's house and runs up towards Kasson where the Old Mill restaurant is, that's considered like the east branch of (inaudible)--

Pat Burch: So, you're saying any extra drainage I might have off of that raise then, should not really affect it--

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Bill Jeffers: You're upstream.

Pat Burch: --any, than what it is right now?

Bill Jeffers: You're upstream, aren't you?

Pat Burch: Well, I--

Bill Jeffers: You're on Red Bank Road--

Pat Burch: Yes, I am.

Bill Jeffers: --upstream of it?

Pat Burch: Yeah, being upstream didn't stop me from having to walk through--

Bill Jeffers: Oh, no.

Pat Burch: --knee high water either.

Bill Jeffers: These folks, if they have a long enough driveway they'll probably be walking through water too. But... because...unless they want to raise their driveways out of the floodplain as well. Whenever you have one of those rains like you had in 1996, in March or--

President Mourdock: April.

Commissioner Tuley: April and May.

Bill Jeffers: Yeah, April, May and June.

President Mourdock: Yeah.

Bill Jeffers: The big one was June 9. You definitely will have water across these lots. Our job is to try to make sure that the houses are built high enough that the water doesn't get in to the living quarters.

Pat Burch: Okay, thank you.

Commissioner Jerrel: Uh-huh.

President Mourdock: Okay, thank you Ms. Burch. Anyone else wishing to speak to that issue? And again, I apologize, I didn't mean to move past you too quickly. Again, this was just a preliminary hearing.

Commissioner Jerrel: We will have the engineer...I have got the information--

President Mourdock: Right.

Commissioner Jerrel: We'll have them go out there and give us a report on this and then we could call someone back...do you want to give us your phone number or...just one of you to call--

President Mourdock: Mr. Scheu, since you raised the question

about the culverts, if you'll give us your phone number we'll make sure the County Engineer or someone calls you back.

Don Scheu: Okay, 4607...I mean, 425-8486, Donald Scheu.

President Mourdock: Okay, 425-8406?

Don Scheu: Eight six.

President Mourdock: Eight six.

Commissioner Jerrel: Can you spell your last name for me?

Don Scheu: I'm sorry?

Commissioner Jerrel: Spell your last name for me.

Don Scheu: S-c-h-e-u.

Commissioner Jerrel: Okay, thank you.

Don Scheu: You wouldn't have spelled it right otherwise.

Commissioner Tuley: That's for sure.

President Mourdock: Yeah, you don't want to even see how I tried here. Okay, we did approve that on preliminary then, and again, I apologize for seemingly rushing by you.

Breckenridge (Residential) Subdivision - Final drainage plan, continued

President Mourdock: The next one up, Bill, is Breckenridge Residential Subdivision.

Bill Jeffers: I think I must have mumbled that if there was anyone else before I took off down there, so I apologize if I didn't state it clearly. I'm good at mumbling. Oh, there it is up there, Breckenridge, okay. Mr. Poff has again provided you with a plat mounted on a board so you can all view it at the same time. We thank Mr. Poff for that. This is Breckenridge Subdivision which received approval of its preliminary drainage plan last month. It's a residential subdivision at the corner of...or just east of the corner of Boonville-New Harmony Road and Petersburg Road, southeast, and behind the Hornets Nest. As I stated last month, it was almost a final drainage plan at that time. Changes that have been made since you approved the preliminary plan include the additions of emergency overflows between the lots that will carry large rainfall runoff...heavy rainfall runoff from that intercepting swale along the east line of the subdivision. That intercepting swale all along the boundary at the location that I've shaded in blue, the purpose for that is to intercept the water that is coming off of the properties to the east, most of which has side road addresses, I believe. There may be one that has a Boonville-New Harmony address. There where homeowners and property owners that made comments that are in last months minutes with regard, I mean, their concern was that their water off their property could still get through these natural watercourses. Well, obviously they're not going to be natural watercourses any longer. They're

going to be man made water...storm water facilities consisting of inlets and pipes to carry that water. So what Mr. Poff has designed is a long intercepting swale to catch that runoff, take it to the inlets and put it into the pipes and carry it over to the lake. Now, obviously those pipes are designed for like a 25 year storm, and what the concern was from the abutting property owners is that we've had much more intense storms than that. So, he has gone back and designed overflow swales that will carry the excess storm water from that intercepting swale between the houses at those two locations where the previous natural watercourses existed, approximately, and carry it out into the street and then the street would act as the emergency overflow at that...during intense storms. Another addition or change from the preliminary plan is an access easement at the end of that cul-de-sac down between Lot 24 and 25. He's put an...a 15 foot, I believe, access easement so you can get back to the spillway channel, and then he's enlarged the spillway channel so that there's a 20 foot maintenance easement on the west side of it so a tractor could move up and down there to maintain that spillway channel. He's put the ditch in a ten foot easement so, together, there's a 30 foot easement which should be plenty wide for any maintenance equipment to get in there. Another addition is an offsite easement at the very southwest corner across Mr. Merle's property, and that's spelled, M-e-r-l-e. Mr. Merle has agreed to allow the developer to install an 18 inch pipe, right now there's a 15, and that's too small and he was experiencing some flooding. It's been enlarged to an 18 inch pipe and he has entered into an agreement with the developer to provide an easement for that pipe because the developer will be submitting funds at two dollars a lineal foot for all pipe outside the right-of-way to be held in the Auditor's Office in case there is a repair job necessary sometime in the future and the easement is required by us so that should Mr. Merle or succeeding property owners experience a pipe failure we can...we have an easement that the contractor can go into when they use the fund to repair the pipe. Hopefully, that won't be necessary, but you do need an easement for any offsite facility. So, those are your basic changes and that brings it up to speed for a final plan and the Surveyor's Office recommends approval of the final plan for Breckenridge Subdivision. The developer is here in the audience. His engineer is here, and I don't know if there is anyone here that might have something to say about it.

President Mourdock: Okay, questions of the Board, for Bill?

Commissioner Jerrel: Point to the house where the man gave the permission for the increased...right down in that corner? Okay.

President Mourdock: Yeah.

Bill Jeffers: This is his house, and then he has a horse barn down here. This is kind of a little horse pasture right now, and that's why the pipe is necessary at that point.

Commissioner Jerrel: Thank you.

President Mourdock: Anyone from the audience wishing to address Breckenridge? Okay, the recommendation of the Board?

Commissioner Tuley: I'll move approval of Breckenridge Residential Sub, on final.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Loer (Residential) Subdivision - Preliminary drainage plan

President Mourdock: For preliminary approval, another residential subdivision, Loer.

Bill Jeffers: I don't know if this is a family name or what, it may be Loer, I'm not sure if it's Loer or Loer. But it's L-o-e-r--

President Mourdock: It might well be Loer.

Bill Jeffers: --and Hill Subdivision. It's a four lot residential subdivision on Big Cynthiana Highway, which officially is State Road 65, just north of Kuebler Road. Lot 1 and Lot 2 both have existing homes on them that have been there for years fronting right on Big Cynthiana Road. Lot 3 and Lot 4 are platted so that family members might build a home there if they wish, behind the two existing residences. Then there is a 60 foot strip for 60 foot frontage on the road and to provide access through driveways to Cynthiana Road. Otherwise, this would have been a two lot minor sub, but according to Area Plan Commission rules, we require it to be designated a major sub because there's four lots. Like I said, there's two existing houses with no apparent drainage problems and the two new driveway accesses entering onto State Road 65 will require INDOT driveway permits, and will receive a review from INDOT with regard to drainage. We examined the site and we examined the calculations and we feel the two new homes won't create any significant increase in runoff, especially when you consider that there'll be plenty of turfed lawn developed around the homes to absorb and dissipate any runoff from the gutters and down spots before it crosses onto adjacent property, most of which, is owned by the developers family. We don't anticipate any new problems from developing two houses, each on two and one half acre lots, and we recommend that the Board waive the requirements for detention and other requirements and treat this as a minor sub and grant approval to Loer Hill's preliminary drainage plan, and the only reason I'm saying preliminary is if someone would come forward between now and Area Plan Commission with a problem that we have not detected. But, like I said, we have not found any--

President Mourdock: Okay.

Bill Jeffers: --problem with what's going on out there.

President Mourdock: Questions for Bill? Anyone from the audience? Yes, sir come on up.

Ron Hughes: My name is Ron Hughes. I live a 9225 Big Cynthiana Road. It's directly across from one of the two existing houses in this proposed subdivision. My question is, the road ditch in

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front of my house and four neighbor's all drain to a point just across from the southern most proposed lot. It comes under Highway 65 there and runs into a natural waterway back toward the wooded area. I'm wondering what will be done with this ditch? Will there be any changes, or what they will do with that natural runoff?

Commissioner Jerrel: Could you show me?

President Mourdock: Yeah.

Commissioner Jerrel: Here, I can see it better on here. This is the southern most lot, and you live?

Ron Hughes: Right about...here's the existing house here. I'm straight across from there.

Commissioner Jerrel: So, this is your place right here?

Ron Hughes: Yes.

President Mourdock: (Inaudible)

Ron Hughes: Right about the line...the property line there is where the culvert goes under the road that's probably 12 to 15 inches.

President Mourdock: Uh-huh.

Ron Hughes: (Inaudible)

Bill Jeffers: There's a drive that's coming out. Would you lie across that drive?

Ron Hughes: Yes, just 35-40 feet north of that drive.

Bill Jeffers: Okay.

Ron Hughes: The pipe now is at an elevation that leaves water standing in all of our ditches here in front of these three houses. It goes through the pipe across the road and reenters down through the woods, and I wonder if there is going to be anything done to make sure this stays open, or if they're going to put a pipe there?

Bill Jeffers: It's kind of how it goes across there and then becomes a creek (inaudible).

President Mourdock: So, is there anything in this plan, Bill, to address how that drainage will flow?

Bill Jeffers: I understand what the gentleman's problem is and it...the standing water exists on his side of the road. That is a state road that's maintained by the State Department, you know, Indiana Department of Transportation or it's commonly know as Indiana State Highway Department. You might want to contact them about the problem you have in your ditch. When I went and looked at it, it looked to me as if they were...they would be able...you all have a map?

Commissioner Jerrel: Uh-huh.

Bill Jeffers: They would be able to construct this new driveway. The code requires that they have a 60 foot frontage on a County or State road. That's right here. It looked to me like the water came and went just south of where the driveway would be. This area is going to be leveled in, actually. So, it will remain the same. It looked to me like the water would cross the highway and go on down its natural watercourse without having to go across this 60 foot strip right here, which would be where the driveway pipe will be, right here. Now, as I said earlier though, the State Highway Department is going to have to approve the access at this point. Their office is in Vincennes, and we can provide you with a number to call probably Bill Kotter, that might be the best fellow to call. K-o-t-t-e-r, and alert him that you have a concern about the ditch on your side, the pipe that goes under the road and you may have an issue about where this access point onto your road will be. Like I said, they will have final approval of the driveway location of this lot and this driveway location of this lot. That's this house. He might meet you out there if you want to point anything out. But, from our review it looked like the water would not cross any property associated with these four lots. It will be over here. Is this Fehrenbacher?

Ron Hughes: Yes.

Bill Jeffers: Fehrenbacher Furniture. What's left of their tract, after they divide these four lots off. It looked like it would go down their natural watercourse through the woods.

Ron Hughes: Okay. The elevated area to the (inaudible) property outlets. It went in right here--

Bill Jeffers: Well, this is the highest area right...see there's 560. It just keeps getting higher and higher about here. It's falling in this direction. Here's 550 around this house. It's about 560 around this house right here. The gully seems to be flowing in this direction.

Ron Hughes: We have no idea of how the houses were laying previous from seeing these plans. So--

Bill Jeffers: Oh, yeah right. I wouldn't expect you to. These are (inaudible). Like I said, if there are any problems that occur between now and a month from today when they have their final approval I'll give you a phone number to call me if Mr. Kotter doesn't give you any satisfaction, or you want to talk about it further. I'll come out and look at it again and make sure that we're thinking along the same lines.

Ron Hughes: Thank you.

Bill Jeffers: Yes, sir.

President Mourdock: Okay, thank you, Mr. Hughes. Anyone else with a question about Loer or Loer Subdivision? Okay then, for preliminary approval is there a motion?

Commissioner Jerrel: I'll move approval on preliminary.

Commissioner Tuley: Second.

President Mourdock: So ordered. Any other plans, approval or preliminary?

Riverwind Pointe Subdivision - Preliminary drainage plan

Bill Jeffers: I left...inadvertently left off Riverwind Pointe. Riverwind is one word. Let me check to see if Pointe has...Pointe does have an "E" on the end of it. Riverwind Pointe Subdivision is a commercial subdivision located at...on Green River Road at the interchange with I-164. It's on the north side of I-164, which places it inside the protection of the levee. The plan directs all the water...all the storm water runoff from within the project boundaries through two detention basins, I haven't given you anything to look at yet. I shaded the two detentions in blue. The outline is...Green River Road is over on your left, which is the west. I-164 is south, at the bottom of the print. The plan directs all the water from within the yellow boundaries there to those blue shaded detention basins and then through a pipe down at the southwest corner, which is the cloverleaf for I-164, through a pipe, through the right-of-way for I-164, through the cloverleaf and to the other side of I-164 where...is that Koester?

President Mourdock: No, it's Rudolph.

Bill Jeffers: Now, it's Rudolph. Okay, Rudolph's batch plant over there and then into Eagle Slough. Okay, since it goes through the right-of-way of I-164, Indiana Department of Transportation approval is required. They're presently reviewing the plans that we have reviewed in our office. The risk involved on the part of the developer is that, or just generally the risk involved is that the pipes that have been placed by INDOT under I-164...I-164 acts as the levee at this point. They pass under the levee--

(Tape change)

Bill Jeffers: --the flap gate on the outside of the levee. That's so when the river comes up, I believe, the pump stations start pumping around 38 feet at this point. When the river gets high it will stand...the backwater will stand on top of that flap gate and hold it shut. That prevents the river from coming through the levee through these interstate drain pipes and backing up into the protected area. Of course, the rain keeps falling on the land inside the levee and it gathers up and goes down to K-1 or K-2A pump station, and it's pumped across the levee over into Eagle Slough. So, what the risk is, is that when this flap gate shuts and it continues to rain, the water will stack up...most...first it'll stack up in the cloverleaf of I-164, then it'll start stacking up in the north right-of-way ditch there and then it may, under the most extreme conditions imaginable, stack up on the project. So, what we are asking the engineer, Mr. Rodney Young, who is here in the audience, and he has provided us with more information as we continue to

communicate with him. But, what we are asking for in addition to the INDOT approval, is to show us on the final plan, if this plan is approved by INDOT, to come back to us with a final plan that must show an emergency overflow so that any pool of water caused when the flap gate is held shut by the backwater, is able to runoff to one of the two available levee pump stations. I talked to Kelly Lawrence this morning. He thinks it's most likely K-2A, that it would go to, which is to the west, I believe down Frisse or Riverside, down in that direction. We just need to know that any ponding water will be handled and pumped across the levee and not cause damage to anyone's property within this project or any abutting property. And also, if required, if this emergency overflow or the course it would have to take, if it would cause water to stack up significantly, we need to find out how high that would stack up before the levee pump stations could take care of it so that we can, in a final plan, we can establish some flood protection grades within this project to make sure that the buildings are protected.

President Mourdock: Okay.

Bill Jeffers: So, it seems serious, you know, when you talk about it. But, I think it's a situation that the engineer can provide us with information...ample information to show whether or not this plan will work efficiently to protect the property.

President Mourdock: Okay, questions for Bill?

Bill Jeffers: So, we are going to recommend approval of the preliminary plan, with those conditions and we're open for questions, or Mr. Young is here to explain the system that he proposes.

Commissioner Tuley: I'll move approval on preliminary plans for the River...I'm sorry?

President Mourdock: Riverwind.

Commissioner Tuley: Riverwind Subdivision.

Commissioner Jerrel: And I'll second.

President Mourdock: Okay, any comments from anyone here? I have to ask. Is it really going to be named U.S. Surveyor Boulevard? The Street?

Bill Jeffers: That's the name of the company that's developing the project.

President Mourdock: Really? I would--

Commissioner Jerrel: Well, and then it's kind of--

President Mourdock: --hope they get it right.

Commissioner Jerrel: It's kind of...I'd like for you to point out too, the...I was reading the road when it winds around and becomes Fickas and it has to stay Fickas Road.

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Bill Jeffers: Oh, that was...that was a discussion that took place during the subdivision review committee--

Commissioner Jerrel: Uh-huh.

Bill Jeffers: --review of this project, and there was some suggestion, I don't know where it stands today, but, from the traffic planners, that this road may be adjusted to line up with Fickas, but that would cause probably the loss of one lot. The lot on the north side of--

President Mourdock: Number 12, yeah.

Bill Jeffers: --U.S. Surveyor. Okay. The second point that came up was that the developer who choose that name would rather call it by some other name than Frisse, or Fickas?

Commissioner Tuley: Fickas.

Commissioner Jerrel: Fickas.

President Mourdock: Fickas.

Bill Jeffers: Okay. He would rather not use the name Fickas for marketing reasons.

President Mourdock: But, he will use--

Bill Jeffers: Those are my words.

President Mourdock: Yeah.

Bill Jeffers: Marketing is my word. But, I mean, that's the impression I got from what the man said.

President Mourdock: Okay. But, he will use U.S. Surveyor Boulevard, okay?

Bill Jeffers: Hey.

President Mourdock: Whatever, okay.

Bill Jeffers: You know, some people still call their dog Fido.

President Mourdock: Okay, there was a motion and a second, I will say so ordered.

Commissioner Jerrel: Uh, Joe--

Bill Jeffers: Thanks for coming Rodney.

Rodney Young: Okay, thank you.

Commissioner Jerrel: --these are two letters about those dogs, I know you haven't thought about that. I want them, but I think you need to read them.

President Mourdock: Okay, your welcome. The next up, read bids

into the record and take the bids under advisement--

Commissioner Tuley: He's not ready.

Commissioner Mourdock: But, Joe's not ready.

Bill Jeffers: Okay, while he's doing that...usually we take the bids under advisement lately, for a period of two weeks because they've gotten so complicated that we can't seem to get it done in a week. But, if it's your wish for us to have it ready by next week for some reason, you know, you guys got rezoning and this, that, and the other, and sometimes, one member is out of town. If it would be better for you in one week, we'll just have to crunch it out. But, what I'd like for you to do, if you don't mind, is take a look at your calenders and see what would be good for you guys one week, two weeks whatever--

Commissioner Tuley: Let's have a special meeting.

Bill Jeffers: --because it will be a special meeting.

Commissioner Jerrel: Will it have to be a special meeting?

Joe Harrison, Jr.: It'll have to be a special meeting.

President Mourdock: Right.

Bill Jeffers: Right. It's done every year.

President Mourdock: Right.

Bill Jeffers: It's...basically the only--

Joe Harrison, Jr.: Can we do it--

Bill Jeffers: --deadline that we're under is that we'd like to get these guys started by April 15. But, I'll tell you, that hardly ever happens anyway.

President Mourdock: Yeah.

Joe Harrison, Jr.: What is the date, the first Monday in April?

Commissioner Tuley: The 6th.

Joe Harrison, Jr.: Is that sufficient time?

Commissioner Tuley: That's two weeks.

Bill Jeffers: That's great, if it's okay with you guys.

President Mourdock: That's the first meeting of the month, the 6th?

Commissioner Tuley: Yeah.

Bill Jeffers: Yeah.

President Mourdock: So, yeah.

Joe Harrison, Jr.: So, we could do it then we could just have this meeting following our regular scheduled meeting.

President Mourdock: Is there a motion then, to advertise for a special meeting of the Drainage Board on...immediately following the normal County Commission meeting on Monday April 6th, 1998?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: And, so ordered.

Blue Claims

Bill Jeffers: I have some claims here if you'd like to do those while Mr. Harrison continues to--

President Mourdock: Sure.

Bill Jeffers: --examine the bids.

President Mourdock: There's a gentleman that's been most patient back there.

Commissioner Tuley: He's here on the bids.

President Mourdock: Ah, waiting on the bids.

Bill Jeffers: He wants to see if anyone under bid him.

President Mourdock: Okay, he gets the award for patience today, you've sat through all this.

Bill Jeffers: He's hoping he gets an award of a contract.

President Mourdock: It would be much superior to a simple award for patience, yeah.

Bill Jeffers: Yeah, just a gold star. Anyway, this is two more bids, I believe these are for 15 percent retainage of previously okayed claims. We always hold 15 percent for 60 days to make sure everyone...all the suppliers have been paid as well.

Commissioner Tuley: Do we need a motion to approve these claims?

Commissioner Jerrel: I'll move approval.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Commissioner Tuley: Something about Mr. Brenner, so I guess--

Joe Harrison, Jr.: Could I ask you something while I'm going

through here? In some of the descriptions there...it's ditch maintenance for some of the ditches and then it's sterilization ditch bottom or application of herbicide.

Bill Jeffers: Right.

Joe Harrison, Jr.: Are those different than the maintenance of like, lets say Harper Ditch or--

Bill Jeffers: What that is--

Joe Harrison, Jr.: --Kolb Ditch? Or is that something different?

Bill Jeffers: Those are all under the special provision section.

Joe Harrison, Jr.: Okay.

Bill Jeffers: And the sterilization at the bottom of Harper ditch by one bidder is to be compared to the bid for the sterilization of the bottom of Harper ditch by another one.

Joe Harrison, Jr.: I understand that, but--

Bill Jeffers: That's just one application of a sterilizing chemical.

Joe Harrison, Jr.: But there are some bids that came in that don't talk about sterilization of ditch. It just says maintenance of ditch. Is that--

Bill Jeffers: On a...on the same ditch that has sterilization?

Joe Harrison, Jr.: Yes, Kolb, Sonntag-Stevens, Harper,--

Bill Jeffers: It doesn't say whether it's for mowing?

Joe Harrison, Jr.: No, it just says maintenance. I'll just read them the way they've come in, and we'll sort them out--

Bill Jeffers: Yeah, and we'll examine them and we'll see if we can...if there's been a--

Joe Harrison, Jr.: That's the way I'm doing it.

Bill Jeffers: I guess the awards will be based upon our recommendation, if we can interpret what the person means.

Joe Harrison, Jr.: Okay.

Bill Jeffers: We will make a recommendation.

Report / Action on Heerdink / Rose petition to remove obstruction

President Mourdock: Okay, you're still going through bids, Joe?

Joe Harrison, Jr.: Yes, I know he's got the Irwin petition and he's got the Rasche petition to talk about, and with the Rasche, I do know that we gave her until April 27, of 19--

Bill Jeffers: Until April 27, right?

Joe Harrison, Jr.: --to do something.

Bill Jeffers: Mr. Harrison notified Mrs. Rasche or Rasche, that she had until April 27th to respond to an order to remove the obstruction consisting of dirt that she had placed in a ditch behind, I think it's 12 through 20 West Mill Road. East Mill Road...no, West Mill Road and as of 3:30 this afternoon, I went by and inspected it and the obstruction still exists. We do have green card...green notification cards in our possession, in the Auditor's Office that shows that Mrs. Rasche and her attorneys have received the notification that Mr. Harrison sent and we have not as of 5:00 o'clock this afternoon, we have not had a response in writing, over the telephone, or in person from any of the persons notified in the Rasche case and I believe Mr. Harrison indicated, if I interpret what he said before the meeting that we should wait until the April meeting to see if she responds and then at that time we will probably have a recommendation to you as to what to do if she doesn't respond, it most likely will be our recommendation to hire a contractor to remove the obstruction, because it's significant enough it can't be done with our manpower. We...it would require heavy equipment and dump trucks to haul the dirt away.

President Mourdock: Well, I hope it doesn't come to that. But it may very well.

Bill Jeffers: I certainly hope it doesn't either.

President Mourdock: The way it has gone, I'll make a prediction, it will.

Report / Action on John Irwin petition to remove obstruction

Bill Jeffers: And then, on the John Irwin petition, I visited the site last Thursday, and again, over the weekend when it was raining. Last Thursday what I saw was that someone had taken a rubber tired implement, probably a backhoe, and pushed most of the dirt out of the way and left a beveled trench from his property line, across the church property, and into the waterway that still was unobstructed, and over into the lake. Over the weekend there was a little sprinkle and it appeared to be draining well. It's not pretty, because at the time they took the equipment through there it was muddy, but it does drain. And, I have not heard from either the representative of the church property nor Mr. Irwin, so I assume they're at least somewhat satisfied with the situation, and I will continue to monitor that to make sure it continues to drain, and I anticipate that the owners of the church property will make some cosmetic improvements to it when the ground dries out.

President Mourdock: Okay.

Bill Jeffers: So, we did not have to go do that.

President Mourdock: Okay.

Bill Jeffers: Someone--

Report / Comments on Bransen Acres Minor Subdivision

President Mourdock: How about Bransen Acres, minor subdivision?

Bill Jeffers: Okay, I forgot about that. There's a comment that I should make to you. Usually minor subdivisions do not come before you. The ordinance does not require it. But, there were some concerns from the neighborhood, as you remember, about this particular project because of alleged neighborhood problems.

President Mourdock: Where is this one at?

Bill Jeffers: This one is behind the mini storage east of...at the end of Earl Avenue, east of Green River and south of Pollack. There's a mini storage owned by someone named Nichols, is that correct?

Commissioner Tuley: Majors!

Bill Jeffers: Majors, Majors, okay, that's it. Mr. Majors also owns this two lot minor sub, and his engineer, Mr. Bivins showed an easement that we required to take the water from the small detention basin that they were going to put in this minor subdivision and run the pipe through the easement all the way out to Pollack Avenue so that it would not run into this lake that's owned by the next door neighbors, who came in here and were very nice, but very insistent that no water go into that pond because they already have a problem with it. Then, I got a call from the lady who owns the pond, and she said that Mr. Majors had approached her husband and tried to talk him into, at least temporary...temporarily, letting the pipe discharge into the pond, and although they're not experiencing any problem this year yet, they did not want to do that because the rest of the neighbors had beseeched them not to allow that to happen because the pond, when it rains really hard, backs up onto their property. I told her that the plan was for the water to be piped all the way out to Pollack Avenue and that our only choices would be to take it to the Drainage Board, have them order us to go out and make an inspection and talk to Mr. Majors and proceed that way, which will probably take a long time--

President Mourdock: Proceed which way? To stick--

Bill Jeffers: To go out there--

President Mourdock: --with the original plan?

Bill Jeffers: Yeah, go out there and tell them, look if you don't stick with the original plan, there are provisions in the drainage ordinance that we can fine you up to so many hundred dollars a day, blah, blah, blah. He'll probably get an attorney, come back and say you don't have any right to review a minor subdivision in the first place, blah, blah, blah. You know, it's going to take some time, I said, but if this man is running a pipe across your property and into your lake the most immediate solution would be to get a restraining order against his workers, him, and his construction equipment, and prevent him from doing that. But, in the mean time, I would go to the Drainage Board and ask them to order our office to go make an

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inspection of it and try to proceed through the drainage ordinance to enforce the drainage plan that he agreed, at least by submittal, that he would complete.

President Mourdock: Is there a recommendation or actually a direction from the Board to have the Surveyor's Office contact the developer to see what can be worked out?

Commissioner Jerrel: I mean, I think that's what you're saying--

Bill Jeffers: I want somebody to tell me to go on his property.

Commissioner Jerrel: Yeah, well I think--

President Mourdock: Right, that's--

Commissioner Jerrel: But we...he did say he would, I mean, we heard it.

Bill Jeffers: He said through his--

Commissioner Tuley: Mr. Bivins.

President Mourdock: Engineer.

Bill Jeffers: He said through his consultant--

Commissioner Jerrel: Yes.

Bill Jeffers: --that he agreed--

Commissioner Jerrel: To do that.

Bill Jeffers: --to set up an easement and run that pipe all the way out--

President Mourdock: Right.

Bill Jeffers: --through his own property--

Commissioner Jerrel: Well, we--

Bill Jeffers: --to Pollack Avenue.

Commissioner Jerrel: It was in our meeting and it's in our minutes and we have the right to ask that. We'd like to know why that isn't happening and instruct you to go out there as our representative.

Bill Jeffers: Okay, thank you.

Commissioner Tuley: Well, if that's the motion, I'll second.

Commissioner Jerrel: It is.

President Mourdock: So ordered. And, that only leaves, reading bids into the record.

Commissioner Jerrel: It's hard to believe, just a few hours ago,

you were in Florida.

Bill Jeffers: In Florida? Oh, that's where he got that sunburn.

Commissioner Jerrel: Uh-huh. Well, we're...he didn't see you, did he?

Bill Jeffers: My wife just came back from Florida this morning and she went down...they didn't have anything better to do, so they got to the airport early in Jacksonville and Northwest said, look if you'll take this earlier flight because we're over crowded on the second flight, we'll give you a \$100.00 bonus for going home early. Can you believe that?

President Mourdock: It's interesting. Here's my notes and I don't know what day this was, real conveniently, but Bransen Acres wants to work with Bill Bivins for a day or two to correct the errors of his typist to see if the corrections are made so that the easements goes from Lot 1, northward through the easement to Pollack Avenue. If this is done alright then Jeffers will recommend approval.

Bill Jeffers: Right.

President Mourdock: This is not something which you substantiative, but is more clerical, very minor errors. So, this can be approved subject to the corrected legal descriptions. The drainage will now go around the lake, and will not discharge into the pond. No water will discharge into the pond.

Bill Jeffers: Right.

President Mourdock: Pretty darn specific.

Bill Jeffers: Well the...what happened was the...who ever typed up the legal left out a couple of calls and it didn't close, and I asked him to correct that before he recorded the legal description of the easement.

President Mourdock: That was December 22. I just read from.

Bill Jeffers: He came back, you know, with a correct legal, and that's the one he said he was going to go downstairs and record.

President Mourdock: Okay.

Bill Jeffers: You know what I saw on tv this morning? A little snippet. I was looking at your laptop. The 1969 moon landing, the module was controlled by a computer that had no more memory than a Texas Instrument pocket calculator.

President Mourdock: Uh-huh, which was as they were landing, the final few seconds literally the computer overloaded and it kept...it didn't have enough memory and they had to recycle it real quickly.

Bill Jeffers: It's a good thing there's not much gravity up there.

President Mourdock: Yeah, that's true.

President Mourdock: When the first space shuttle flew, it had five computers on board it. None of them nearly this sophisticated. And the five computers worked so that if there was a problem, it took a vote which ever answer came back with the majority is what the thing did.

Bill Jeffers: Three out of five?

President Mourdock: Yeah.

Bill Jeffers: Were they all made by the same company?

Commissioner Tuley: That's a good question.

President Mourdock: I should think they were.

Bill Jeffers: Because if one of them...I shouldn't say this on tape, but if one of them was a Honeywell they probably had to wait a day for his vote.

President Mourdock: That was the Challenger.

Joe Harrison, Jr.: Bare with me, the last batch.

Bill Jeffers: Does Mr. Bittner have anything to report from--

Unidentified: I can--

Bill Jeffers: --the Nisbet, Azteca? Big Creek Drainage Association is having their annual banquet tonight and instead of barbecued chicken I get to chew on this microphone. So, we sent the good looking ones out there. Did you want to say anything Rick?

Rick Jones: No, uh-uh.

Bill Jeffers: You look like you've been to Florida too.

(Inaudible) - comments made away from the microphone.

Read bids into the record & Take bids under advisement

President Mourdock: We're back on record. So, we have the--

Joe Harrison, Jr.: We have many bids that have been submitted. What I'll do is go through each kind of category and ask for, I guess, a motion to accept and take under advisement. So, I'll just start out with the first one. Maintenance of Wallenmeyer Ditch, two bids submitted. The first from:

Daniel J. Paul, Ft. Branch, Indiana
Maintenance of Wallenmeyer Ditch
\$1,286.67

the second, from:

Eldon Maasberg, Evansville, Indiana

Maintenance of Wallenmeyer Ditch
\$1,253.25

I would ask that you take these under advisement.

Commissioner Jerrel: So moved.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next item is maintenance of Pond Flat Lateral "A" Ditch. The only bidder was RR Rexing Farm, Inc:

RR Rexing Inc Farm, Inc., Evansville, Indiana

Maintenance of Pond Flat Lateral "A" Ditch
\$743.54

Commissioner Jerrel: I'll move we take it under advisement.

Commissioner Tuley: Second. Why don't...can we not do this just at the end and all at once?

Joe Harrison, Jr.: Well, I've got a bunch of them, just fast.

President Mourdock: Okay, so--

Commissioner Jerrel: I'll do it fast.

President Mourdock: So, there's a motion and a second, and so ordered. We'll get better at this as we go on.

Joe Harrison, Jr.: Maintenance of Pond Flat Lateral "D" Ditch, only one bid:

RR Rexing Farm, Inc., Evansville, Indiana

Maintenance of Pond Flat Lateral "D"
\$641.06

Commissioner Jerrel: I move we take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Maintenance of Singer Ditch, one bid:

Rexing Enterprises, Inc., Haubstadt, Indiana

Maintenance of Singer Ditch
\$318.50

Commissioner Jerrel: I move we take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, the maintenance of Hoefling Ditch,

one bid:

John F. Maurer, Evansville, Indiana
Maintenance of Hoefling Ditch
\$557.10

Commissioner Jerrel: I move we take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Next, maintenance of Baehl Ditch. There were two bids submitted. The first, from:

John F. Maurer, Evansville, Indiana
Maintenance of Baehl Ditch
\$861.25

The second, from:

Eldon Maasberg, Evansville, Indiana
Maintenance of Baehl Ditch
\$1,033.50

Commissioner Jerrel: I move we take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, maintenance of Edmond Ditch. The sole bid:

Union Township Ditch Association, Inc., Evansville, Indiana
Maintenance of Edmond Ditch
\$461.85

Commissioner Jerrel: I move we take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, maintenance of Cypress Dale / Maddox Ditch. The sole bid:

Union Township Ditch Association, Inc., Evansville, Indiana
Maintenance of Cypress Dale / Maddox Ditch
\$238.87

Commissioner Jerrel: Take under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next one, maintenance of Barnett Ditch. Union Township Ditch Association, Inc., was the sole bidder:

Union Township Ditch Association, Inc., Evansville, Indiana

Maintenance of Barnett Ditch

\$250.74

Commissioner Jerrel: Take under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, maintenance of Happe / Helfrich Ditch. The sole bidder:

Union Township Ditch Association, Inc., Evansville, Indiana

Maintenance of Happe / Helfrich Ditch

\$380.94

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Maintenance of Kamp Ditch, Union Township Ditch Association, Inc., the sole bidder:

Union Township Ditch Association, Inc., Evansville, Indiana

Maintenance of Kamp Ditch

\$334.80

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Kneer Ditch. Eldon Maasberg was the sole bidder:

Eldon Maasberg, Evansville, Indiana

Maintenance of Kneer Ditch

\$303.60

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Maasberg Ditch, the sole bidder:

Eldon Maasberg, Evansville, Indiana

Maintenance of Maasberg Ditch

\$154.42

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

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President Mourdock: So ordered.

Joe Harrison, Jr.: Kolb Ditch, there were two bidders. The first:

Jim Axton, Evansville, Indiana

Maintenance of Kolb Ditch
\$2,459.82

The second:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Kolb Ditch
\$2,236.65

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Aiken Ditch, one bidder:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Aiken Ditch
\$2,873.80

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Harper Ditch, the sole bidder:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Harper Ditch
\$1,628.11

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next one, Keil Ditch. The sole bidder:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Keil Ditch
\$1,662.32

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Sonntag-Stevens Ditch
\$6,122.19

Commissioner Jerrel: Sole bidder?

Joe Harrison, Jr.: It appears to be.

Commissioner Jerrel: Okay. I'll take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next one, East Side Urban, south half:

Terry R. Johnson Construction, Evansville, Indiana

East Side Urban, south half
\$34,141.75

And again, that appears to be the sole bidder.

Commissioner Jerrel: Take it under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next one, East Side Urban, north half, appears to be one bidder. Again it's:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of East Side Urban, north half
\$12,293.80

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Henry Ditch, appears to be one bidder:

Terry R. Johnson Construction, Evansville, Indiana

Maintenance of Henry Ditch
\$1,118.07

Commissioner Jerrel: Take that under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next one, Rusher Ditch. Big Creek Drainage Association, Inc., appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana

Maintenance of Rusher Ditch

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\$533.28

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Pond Flat Lateral "E", appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Pond Flat Lateral "E"
\$433.92

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Pond Flat Lateral "C", appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Pond Flat Lateral "C"
\$1,084.32

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Pond Flat Main, appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Pond Flat Main
\$4,790.76

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Maidlow Ditch, appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Maidlow Ditch
\$2,613.94

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Buente Upper Big Creek, appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Buente Upper Big Creek
\$3,837.05

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, Barr Creek, appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Maintenance of Barr Creek
\$4,133.60

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Then, there's a Pond Flat Main, Slit dipping/Bank reshaping, appears to be one bidder:

Big Creek Drainage Association, Inc., Evansville, Indiana
Slit dipping / Bank reshaping
\$2,700.00

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Commissioner Tuley: The one bidder is cringing. What is that?

Joe Harrison, Jr.: That's right. The next, Pond Flat Lateral "B", appears to be only one bidder:

Georges & Georges Excavating, Inc., Ft. Branch, Indiana
Maintenance of Pond Flat Lateral "B"
\$1,957.90

Commissioner Jerrel: Take this under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next is sterilizing ditch bottoms. Sonntag-Stevens Ditch, three bidders. The first:

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Shideler Spray Service, Eaton, Indiana

Sterilizing ditch bottoms, Sonntag-Stevens Ditch
\$1,091.91

The second bid:

Carso, Inc., Camargo, Illinois

Sterilizing ditch bottoms, Sonntag-Stevens Ditch
\$1,034.10

The third bid from:

Downin's Green Grow, Inc., Columbus, Indiana

Sterilizing ditch bottoms, Sonntag-Stevens Ditch
\$1,070.00

Commissioner Jerrel: I take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, applying broadleaf herbicide, Eagle...is it Slough?

President Mourdock: Slough.

Commissioner Jerrel: Slough.

Joe Harrison, Jr.: Slough, I'm sorry. I ought to know that. It's (inaudible)

Bill Jeffers: (Inaudible)

Joe Harrison, Jr.: Three bids:

Shideler Spray Service, Eaton, Indiana

Applying broadleaf herbicide, Eagle Slough Ditch
\$4,866.48

Carso, Inc., Camargo, Illinois

Applying broadleaf herbicide, Eagle Slough Ditch
\$4,145.52

And the third bid is from:

Downin's Green Grow, Inc., Columbus, Indiana

Applying broadleaf herbicide, Eagle Slough Ditch
\$4,205.00

Commissioner Jerrel: Take these under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next is broadleaf herbicide application, Sonntag-Stevens Ditch. There were three bids.

Shideler Spray Service, Eaton, Indiana

Broadleaf herbicide application
\$234.60

The second bid from:

Carso, Inc., Camargo, Illinois

Broadleaf herbicide application
\$469.20

And the third one is from:

Downin's Green Grow, Inc., Columbus, Indiana

Broadleaf herbicide application
\$272.00

Commissioner Jerrel: Take these under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next category, sterilizing ditch bottoms, Kolb Ditch. There were three bids:

Shideler Spray Service, Eaton, Indiana

Sterilizing ditch bottoms, Kolb Ditch
\$570.49

The second:

Carso, Inc., Camargo, Illinois

Sterilizing ditch bottoms, Kolb Ditch
\$540.29

The third:

Downin's Green Grow, Inc., Columbus, Indiana

Sterilizing ditch bottoms, Kolb Ditch
\$587.27

Commissioner Jerrel: I move we take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Sterilize ditch bottoms, Keil Ditch. There were three bids, again. The three:

Shideler Spray Service, Eaton, Indiana

Sterilizing ditch bottoms, Keil Ditch
\$307.22

Carso, Inc., Camargo, Illinois

Sterilizing ditch bottoms, Keil Ditch
\$290.96

And the third:

Downin's Green Grow, Inc., Columbus, Indiana
Sterilizing ditch bottoms, Keil Ditch
\$316.26

Commissioner Jerrel: I move we take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, sterilize ditch bottoms, Harper Ditch. Three bids again.

Shideler Spray Service, Eaton, Indiana
Sterilizing ditch bottoms, Harper Ditch
\$300.90

The second:

Carso, Inc., Camargo, Illinois
Sterilizing ditch bottoms, Harper Ditch
\$284.97

And the third:

Downin's Green Grow, Inc., Columbus, Indiana
Sterilizing ditch bottoms, Harper Ditch
\$309.75

Commissioner Jerrel: I move we take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: We're getting closer. Sterilize East Side Urban, south half ditch bottoms. Three bids again.

Shideler Spray Service, Eaton, Indiana
Sterilizing East Side Urban, south half ditch bottoms
\$1,717.37

Carso, Inc., Camargo, Illinois
Sterilizing East Side Urban, south half ditch bottoms
\$1,626.45

Downin's Green Grow, Inc., Columbus, Indiana
Sterilizing East Side Urban, south half ditch bottoms
\$1,683.00

Commissioner Jerrel: I move we take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: The next, broadleaf herbicide application. Again, three bids. The first:

Shideler Spray Service, Eaton, Indiana

Broadleaf herbicide application, East Side Urban, south half ditch bottoms
 \$1,542.56

The second:

Carso, Inc., Camargo, Illinois

Broadleaf herbicide application, East Side Urban, south half ditch bottoms
 \$3,085.12

And the third:

Downin's Green Grow, Inc., Columbus, Indiana

Broadleaf herbicide application, East Side Urban, south half ditch bottoms
 \$1,788.48

Unidentified: What ditch is that?

Joe Harrison, Jr.: I'm sorry, broadleaf herbicide application, East Side Urban, south half. Again, Shideler \$1,542.56, Carso \$3,085.12, Downin's Green Grow \$1,788.48.

Commissioner Jerrel: I move we take these bids under advisement.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: That's it.

Commissioner Tuley: I move that we adjourn.

Commissioner Jerrel: I'll second.

President Mourdock: So ordered.

Meeting adjourned at 8:10 p.m.

Those in attendance

Bettye Lou Jerrel
 Richard E. Mourdock
 Patrick Tuley
 Joe Harrison, Jr.
 B.J. Farrell
 Bill Jeffers
 Robert Norrick
 Helen Norrick
 Don Scheu
 Pat Burch
 Ron Hughes
 Rodney Young
 Rick Jones
 Others unindentified

**Vanderburgh County
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Members of the media

**Vanderburgh County
Drainage Board**

Richard E. Mourdock, President

Bettye Lou Jerrel, Vice President

Patrick Tuley, Member

Recorded by B.J. Farrell and transcribed by Gary Tucker

**Vanderburgh County
Special Drainage Board Meeting
April 6, 1998**

Call to order

President Mourdock: We'll call the Special Drainage Board meeting of April 6, 1998 to order.

Award bids - Annual maintenance on regulated drains

President Mourdock: I don't know...well, I know this meeting was specifically called to simply award bids. The Surveyor's Office has provided a listing to us with three pages of recommended bids for the 1998 annual and additional maintenance for regulated drains in Vanderburgh County, Indiana. I spoke in error, it is actually five pages with a tabular summary of same. A question for the County Attorney, Joe, do we need to read all these into the record or since the Surveyor's Office has presented us such a perfectly documented form can we just accept this form as the lowest bidders?

Joe Harrison, Jr.: I think that is acceptable. He may want to make a statement.

Commissioner Jerrel: Are you prepared tonight to award to the lowest bidder? Is that what you're--

Bill Jeffers: Yes, ma'am. Last year...Charlene has provided the minutes of last year's meeting and we did the same thing. We presented you with a packet. The first five pages show the lowest bidder or the only bidder on each ditch alphabetically and it also gives you the other pertinent information of how many feet to be treated in the spring or the fall or in the fall only; the nature of the treatment, whether it is mowing, spraying, etc.; the total cost for the year that if these bids are awarded as we recommend what the total cost will be for the entire year; and then the estimated year end balance after those costs are paid.

President Mourdock: Okay.

Bill Jeffers: Out to the side if there was another bidder on a ditch such as the second one, Baehl Ditch, we show that John Mauer for existence...for example was the lowest of the two bidders.

President Mourdock: Okay.

Bill Jeffers: Then the second five pages which is formatted 11 inches horizontally is the spreadsheet in case you care to peruse that shows what each bidder bid so you can verify and that goes into the record so anyone can verify what each bidder did bid and showing that we have selected the lowest bidder and put that on the first five pages as the lowest bidder. The only other thing I'd like to draw your attention to is that East Side Urban, because of the mowing we had to do last year due to the delay along Burkhardt Road in completing that project, we went into the hole and in order to balance that account we are recommending this year that the ditch only be mowed one time and that it begin August 15th and end no later than November 15th and we're recommending that the ditch only be mowed because if it is mowed one time the total cost on page two, second block, will be \$23,326.97 for that total footage of north half and south half combined and that will balance the account and leave \$484.19 in the account.

President Mourdock: Did the person who bid that one or entity that bid it realize they

would only be doing it one time?

Bill Jeffers: They will be so notified...they've been notified on the telephone verbally, but they'll be notified in writing.

President Mourdock: And they were still willing to accept it under those conditions?

Bill Jeffers: If they don't we'll have a balance of twenty-three thousand eight hundred and something.

President Mourdock: But it won't get mowed. Right, okay.

Bill Jeffers: But, yeah, the State Board of Accounts was concerned about that being out of balance and this is the only way that we're able to put it into balance is to only mow the minimum footage that we advertised and only mow it one time.

President Mourdock: Were there any anomalies, Bill, in that any of these that you're recommending for award were anything other than the lowest bidder?

Bill Jeffers: No, all the recommended bids on all ten of these pages--

President Mourdock: Are the lowest?

Bill Jeffers: --are the lowest bidder.

President Mourdock: Okay.

Bill Jeffers: And we did verify that they were qualified bidders and that the mathematics was correct. Each one of them submitted either a bid bond or a certified check, cashiers check, etc.

President Mourdock: Okay.

Bill Jeffers: The only other thing that will happen if you approve these that might stick out a little is on Pond Flat Lateral B, page four, the annual maintenance will consist of silt dipping. This is a result of silt accumulation due to Azteca and we felt we had to do this to continue to drain that ditch properly. If you award this bid, and we do recommend that you do award the bid, you will have a negative balance of \$54.43 which we will be able to bring back into the black at this time next year when we award it for regular annual maintenance only.

President Mourdock: Do we have any problem, Joe, awarding one that's going to come out to a negative balance?

Bill Jeffers: It's our opinion that we're able to maintain a negative balance for up to three years, but--

President Mourdock: From reading the statute, that's your opinion?

Bill Jeffers: That's just our standard operating procedure. We also--

Commissioner Jerrel: You've done this in the past?

Bill Jeffers: We can borrow from one account and...we can borrow from any one account that has a surplus and balance this account so long as we pay the other account back within three years.

President Mourdock: Okay.

Bill Jeffers: That's why we have that opinion. Now...but the State Board of Accounts...the reason I am pointing that out is the State Board of Accounts called us and said, hey, your in the hole \$11,000 in East Side Urban and we are showing you that we are balancing that by mowing only without making a transfer. If this is a problem we can transfer \$100 from Pond Flat A.

Joe Harrison, Jr.: I'd prefer that you do that. If you could make a transfer at some point.

Bill Jeffers: Then we have to transfer the \$100 back at the end of `99. I did want to point out these things to you just to make sure that everyone knows what we're doing.

President Mourdock: Sure.

Commissioner Jerrel: Alright, I would like to make a motion that based upon the documented evidence of all bidders, and all ditches, and all maintenance contracts that the lowest bidder in each has been accepted and that is evidence by the document that we're going to submit, and that's a motion that we approve.

President Mourdock: And I will say second and so ordered. Again, I guess just formally we need a motion to request the Surveyor's Office to make that transfer from...was it Pond Flat Lateral B?

Commissioner Jerrel: I would move that...I've got them.

President Mourdock: Okay, go ahead then.

Commissioner Jerrel: I would move that a transfer of \$100 be made from Pond Flat Lateral A annual maintenance from their estimated year end balance to Pond Flat Lateral B for the silt dipping which would show a negative this year and it will be repaid then in `99.

President Mourdock: Okay, I will say second and so ordered.

Bill Jeffers: And then again last year I brought the contract document that we have been using for several years because it was the first year that Mr. Harrison represented you as your legal advisor and had him take it back to his office and peruse it and call in and let us know whether he approved of the language and he did, so I didn't bring that with me this year because it is exactly the same document we've been using and I would ask you at this time to direct the Surveyor to...I'm trying to read what you said last year...immediately enter into contracts with all the various contractors who have been awarded the bids just now and have them sign the contract document of which I speak.

President Mourdock: Is there a motion?

Commissioner Jerrel: There is a motion to that effect.

President Mourdock: Second and so ordered. Any other business before us this

evening?

Bill Jeffers: The Surveyor's Office has no further business.

President Mourdock: Motion for adjournment?

Commissioner Jerrel: I move that we adjourn.

President Mourdock: Second and so ordered.

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

Those in attendance:

Richard E. Mourdock

Betty Lou Jerrel

Charlene Timmons

Bill Jeffers

Members of the media

Others unidentified

**Vanderburgh County
Drainage Board**

—

Richard E. Mourdock, President

—

Betty Lou Jerrel, Vice President

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

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**Vanderburgh County
Drainage Board Meeting
April 27, 1998**

The Vanderburgh County Drainage Board met in session this 27th day of April in the Commissioners' Hearing Room of the Civic Center Complex at 7:00 p.m. with President Richard Mourdock presiding.

Call to Order

The meeting was called to order by President Richard Mourdock.

The following introductions were made:

President Mourdock: Our Recording Secretary, at my left, is Charlene Timmons; at the far right is County Attorney, Joe Harrison, Jr.; next to Joe, is County Commissioner Pat Tuley; and next to me, is County Commissioner Bettye Lou Jerrel; I'm Richard Mourdock. As you may know the County Commission, which is the three of us, also serves as the Drainage Board. So, we are here this evening solely for drainage issues.

Approval of the minutes

President Mourdock: Item number one, is to ask for approval of the minutes from the previous meetings. We had a meeting on March 23rd, a regular meeting, and we also had a special Drainage Board meeting for the awarding of bids on April 6, 1998. Is there a motion to approve those minutes?

Commissioner Jerrel: I'd like to move approval, first of all, the March 23rd minutes.

Commissioner Tuley: I'll second.

President Mourdock: So ordered.

Commissioner Jerrel: And on the April 6th, Commissioner Tuley was not here, so I'd like to move approval of the April 6th minutes.

President Mourdock: I will say second and so ordered.

Harmony Hollow Estates - Final drainage plan

President Mourdock: Next item on our agenda then is the subdivision drainage plans for Harmony Hollow Estates, and as always the Deputy County Surveyor, Bill Jeffers, will present the technical data.

Bill Jeffers: Harmony Hollow Estates is a simple four lot subdivision immediately west of Jennings Lane, south...excuse me, north of the intersection of Red Bank and Harmony Road. It received preliminary approval last month and then the Commission gave the street plan approval in April. There was no remonstrator of any kind associated with the street plan or drainage approval, and the only item that was left undone prior to final approval is that there is a significant natural watercourse across one of the lots that's shaded in yellow. I had the engineer crosshatch that on the recorded plat, and add a note that I've also shaded in yellow, with regard to developing within that watercourse would require a

grading plan or a drainage plan submitted to our office and brought to you for approval. And with that, I would recommend the approval of the final drainage plan for Harmony Hollow Estates.

President Mourdock: Okay, questions for Mr. Jeffers from the Board? Any comments from the audience on this particular issue, Harmony Hollow Estates?

Commissioner Jerrel: I'd like to move approval of the final drainage plan for Harmony Hollow Estates.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Wexford Estates - Preliminary drainage plan

President Mourdock: The next subdivision on our agenda is Wexford Estates, and this is a preliminary plan?

Bill Jeffers: Yes, sir. What I understand we have here is a small subdivision of 28 lots. Immediately to the east of this proposed subdivision is Deerfield. It's maybe one half mile...this subdivision is maybe half mile south of Mt. Pleasant, maybe a quarter of a mile north of Eissler Road and it enters off of Old State Road. I believe the subdivision of this parent tract was made possible by a Barrett law sewer that was either extended up from Pine Tree or Pine Gate Road--

Unidentified: Pine Creek.

President Mourdock: Pine--

Bill Jeffers: Pine Creek Road, Okay. That enables that...since that would serve this area they can divide it into lots and they've chosen to divide it into 28 lots. It does show a detention facility to capture the increased storm runoff that is calculated to occur from all the new streets and rooftops, driveways, etc. It's conveyed to a basin down in the southwest corner of the subdivision and then it is discharged through an off-site easement that will have to be acquired or has been acquired from the neighbors into the natural creek channel. The natural creek channel is being rerouted through the subdivision so that it will pass in an orderly fashion underneath the entrance road and along some lot lines on its way back out of the subdivision onto adjoining properties. I have some notes on there that I'll be using to review the final drainage plan, and because the drainage from the basin goes off-site onto other people's property, whom I assume are in agreement, if they grant an off-site easement our office is recommending that the design engineer, Morley and Associates, who's represented here tonight by Jim Morley, Jr., would use the Indiana Handbook for Erosion Control and select some recommended method out of that handbook to protect the natural streambed where this will discharge back onto other private property. That's the kind of thing we'll be looking at before final approval. There may be some people here in the audience that would comment on this particular plan, and it is a preliminary plan that we will be recommending for approval at this time.

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President Mourdock: Okay, are there any questions of the Board for Mr. Jeffers?

Commissioner Jerrel: I just had one question. When you said other people would have to grant that relocation...the authority to relocate that?

President Mourdock: The easements.

Bill Jeffers: Well, there is property that I've shaded, I think in orange--

Commissioner Jerrel: Right.

Bill Jeffers: --where the basin discharges onto property that will not be a part of this subdivision, and that would require an off-site easement that would have to be granted by the people that own that land.

Commissioner Jerrel: And...well...the...my question was, that's all part of the record though for final adoption? That would be part of the official record--

Bill Jeffers: That would have to be a recordable document showing an easement had been acquired from those people. I've had a conversation with Mr. Morley. I think the people they're getting the easement from have an interest in the project. But, I mean, a lot of this stuff is more or less confidential until they come show me the recordable document--

President Mourdock: Uh-huh.

Commissioner Jerrel: Right.

Bill Jeffers: --so I'm just waiting for that type of thing before we go to final approval.

President Mourdock: Okay. Any questions from the audience regarding Wexford Estates, preliminary plan? If so, you need to come to the microphone please and...because our recording system isn't very strong, state your name and address please.

Bill Mattingly: My name is Bill Mattingly. I live at 8015 Old State Road. Which, we haven't been able to see anything like this, this size.

President Mourdock: Sure.

Bill Mattingly: I don't know if you guys can read that or not.

Commissioner Jerrel: Do you want to...okay.

Bill Mattingly: Can I see that?

Commissioner Jerrel: Is there anyone else here with you?

Commissioner Tuley: Oh, my.

Bill Mattingly: Yeah, there's a lot of people here.

Commissioner Jerrel: Well, why don't you take it up to the microphone so everybody can look at it?

Joe Harrison, Jr.: Why don't you give them a minute or two?

Commissioner Jerrel: Yeah, just go ahead and take a minute and look it over.

Bill Mattingly: Can he help us right here?

Commissioner Jerrel: We could...yeah, would you all...that's a good idea. Would you all want to go out in the hall with Mr. Morley and talk a few minutes, and then come back in? How would that be?

Bill Jeffers: Give yourself a little chance to familiarize yourself--

Bill Mattingly: That might help us because--

President Mourdock: Okay.

Bill Mattingly: --you're the one that knows some of this stuff.

Jim Morley, Jr.: (Inaudible - comments made away from microphone.)

Commissioner Jerrel: Yeah.

Bill Jeffers: We were going to move on with some other plans. If Mr. Morley can't explain it I'll go out there.

President Mourdock: We'll be happy to...Mr. Jeffers will answer whatever questions you have once you come back in. I mean, we're not trying to keep you from getting your questions answered.

Bill Jeffers: Jim designed it. He may be able to explain most of what you have.

Bill Mattingly: Okay, as long as somebody can answer some questions.

President Mourdock: Yeah, we're not trying to avoid your questions.

Commissioner Jerrel: No.

President Mourdock: We just want you to have the time to look at the map.

Commissioner Tuley: Since you've just gotten it.

President Mourdock: Yeah.

Bill Mattingly: Okay.

President Mourdock: Well, we will return in a few moments then to the Wexford Estates preliminary plan.

Winstead Place Section II - Preliminary drainage plan

President Mourdock: Next one on my agenda, Bill, is the Winstead Place Section II, preliminary.

Bill Jeffers: Winstead Place Section II is immediately adjacent and east of Winstead Place Section I. Winstead Place Section I received final approval and is under construction. I guess the developer was still negotiating with people to the east because all along this was anticipated to come in. As a matter of fact, one of the basins received final approval...received approval as a part of the final plan for Winstead Section I. So this is basically just an extension to the east of the very same land calculation. Same size lots. Same type of development. It is very steep where it falls off from Hogue Road down to Carpenter Creek. So steep that in Winstead Section 1 we agreed with the design engineer that some of that should remain natural and undisturbed, and that's where those large areas designated natural surface watercourses are going to be left undisturbed, and only receive any erosion control treatment that might be necessary if a problem arises during development. Other than that it could have come in here as a final plan, but I cautioned the design engineer not to ask for a final plan because from time to time you have a group of people, such as the folks talking to Mr. Morley right now, who may have information that we're not privileged to have that might require minor alterations before we go to final approval. So we've been going through the preliminary and secondary review each time. But these calculations are the same as they were for Winstead Section I and he's following the same development pattern and our recommendation is to approve the preliminary drainage plan for Winstead Section II, as it's shown on there.

President Mourdock: Okay.

Bill Jeffers: With certain notes we'll be addressing prior to final approval.

President Mourdock: Okay, any questions of Bill on this one? Comments from the audience?

Clifford Thomas: My name is Clifford Thomas. I live at 827 North Red Bank Road. We have some concerns not having seen the original designs on Winstead II. We know that there are natural watercourses in the area. Some of them drain down onto Mrs. Fleming's property, and just below her property is where my water problems drain to. My water problems accumulate from all the houses north of Hogue down to the bottom of Red Bank. All of that water goes through my front yard. Okay, I have a 24 inch storm sewer there, which for the most part handles the water, except in the torrential pours, which by nature, we expect. To the northeast end of my property is Mrs. Fleming's driveway, which is an elevated four foot driveway, and we have a 24 inch pipe going underneath that. Now that water empties out onto what we refer to as a floodplain. It is a very flat area. My concern is with the removal of the natural detentions, shrubs, bushes, things that soak up the water that slow down the runoff into these natural waterways, we're going to have an extremely large amount of water during these high runoff periods coming into what we're draining into right now, which eventually flows into Carpenter Creek. What we would like to know is if there...or

personally what I would like to know is, if there are any plans for any kind of water detention in Winstead Place II? Like the Surveyor said, that drops off pretty sharp right in that area. There's not much to deter...you know, to deter any water flow once you start putting in patios, and roofs, and gutters, and grass, and things of that nature. So one, is there any detention upstream of us? And two, have there been any considerations of what to do with the water once it hits the flat area? Once it gets down to the property below us, that's pretty flat, there's a very small creek, not much of a ditch. We, on a regular basis, go out and clean that out of any debris, you know, leaves, sticks, things of that nature to help the natural course of the water make its way down to Carpenter Creek. These are a few of the questions that I have.

President Mourdock: Okay.

Commissioner Jerrel: Do you...would you like to look at this also?

Clifford Thomas: Yes ma'am, I certainly would.

Commissioner Jerrel: See if you could...okay and maybe--

President Mourdock: Is it Mrs. Fleming? Is that what I heard? Do you have some additional comments or questions beyond Mr. Thomas' that Bill might be able to answer at the microphone?

Judy Fleming: Can I go ahead and address it--

President Mourdock: Sure.

Judy Fleming: --or I could just point it out on the map.

President Mourdock: Either way. Just be near a microphone when you speak.

Commissioner Jerrel: Yeah, you can come up here if you want to and just point--

Judy Fleming: Okay, thank you. You'll find it there and here.

President Mourdock: State your name and address please.

Judy Fleming: I'm Judy Fleming, at 837 North Red Bank Road. If I can find...here it's talking about Section I. Where is Red Bank Road on here right now?

Bill Jeffers: Red Bank Road, wouldn't it be off to the west? Where's Peckenpaughs? Isn't this that area that they used to--

Judy Fleming: Peckenpaughs Garden Center?

Bill Jeffers: Right in here, isn't it?

Unidentified: So we got Hogue down there?

Clifford Thomas: That's Hogue Road, right here.

Judy Fleming: This is Hogue Road. Then Red Bank Road comes down--

**Vanderburgh County
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April 27, 1998**

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Clifford Thomas: It's over here.

Judy Fleming: --around this way?

Bill Jeffers: Right, so this is all downstream from Red Bank?

Clifford Thomas: Correct.

Bill Jeffers: I'm going to try and get the site, or the location--

Judy Fleming: I'm trying to get the...you know, we couldn't see much in these small maps that they sent out. I realize they have to do that. But my house sits right here, and Stan Lovell sits right here. My property used to have a lake there, and a lot of the flow from up here at Hogue Road drained down into that lake, and because the Lovells have an easement on my property for their driveway, we had a...there's a drainage tile underneath their driveway to take care of all the flow of the land, and it's like a spillway from the lake. Several years ago my husband was still living we got rid of that lake because the dam kept caving in, and we just got rid of that, and we have a big flat area there now. But there is a ditch provided there for drainage from the hillsides around there. But that's just for, you know, the natural flow now. My concern is with all this going on, is the property of these homes, are they going to run water down that hill, down through there, into my ditch that we provided?

Clifford Thomas: That's a natural waterway. And there'll be a lot of water--

Judy Fleming: And if so, that's going to be a lot of water coming down through there, and it will flood my property. Which, like I said, I know we had to provide a ditch, a small ditch, and we did.

Bill Jeffers: Right.

Judy Fleming: Through the years the force of the water, when you have a downpour like eight inches of water we had last year in April or May, there's a ditch there, but the neighbors back up the hill and the wayside, they put leaves and that in the ditch, and they just kept rushing, gushing down into there. I've had huge logs this big around clogging the...the pipe underneath the Lovell's driveway, because there's such a strong current coming through there.

President Mourdock: How does this map relate to what we got here?

Judy Fleming: That's what I was trying to figure out too.

Bill Jeffers: Let's use this one here, it's not...it's not a great map, but it shows you...here's Hogue Road...I had to draw it in because--

Judy Fleming: Okay.

Commissioner Tuley: And there's the four way stop.

Judy Fleming. I'm right here in the sharp "S" curve. Right here.

Commissioner Tuley: Oh, that's where you're at?

Judy Fleming: I'm right here. I'm right--

Bill Jeffers: And this is Section II.

Judy Fleming: --smack on there, and he's right...and Mr. Thomas is right next to me, I'm right smack here.

Bill Jeffers: So your water--

Judy Fleming: There's a lot of (inaudible) right there.

Commissioner Tuley: Yeah.

Bill Jeffers: Your water basically goes down this creek in this direction--

Judy Fleming: There's a--

Bill Jeffers: --into Carpenter Creek?

Judy Fleming: Is this the ditch, right through here?

President Mourdock: No, it's--

Clifford Thomas: Well, right here is where...there's a driveway that comes down this way and comes across here. This ditch no longer naturally goes there. It flows down lower and crosses right about here through an eight inch pipe.

Judy Fleming: Oh, that's your property you're talking about now.

Clifford Thomas: That's the right-hand side of your property. This is the hill that the Lovells live on. Okay? Because here's--

Judy Fleming: Did I say that right? Yeah, I'm right here. Right.

Clifford Thomas: Because I'm right there. Okay, I'm right here on this hill.

Judy Fleming: Uh-huh.

Clifford Thomas: And the water blocks off right there through your driveway and my property, and it goes through right there. Now, all the water coming down here, if you start taking away the natural deterrents through this natural waterway, and if this is...you said this is II over here?

Bill Jeffers: Yes, sir.

Clifford Thomas: Okay. Well, the water coming down from I, and the water coming down from II is going to cause longer periods of time for this area to empty out, and we're just concerned about, you know, our areas emptying out because right now--

Commissioner Jerrel: It's a real heavy one.

Clifford Thomas: --it can be...it can be real exciting, yes.

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Judy Fleming: It's real bad some times.

Commissioner Tuley: Are either one of your houses that...the white house with the little spindled porch?

Clifford Thomas: That's mine.

Commissioner Tuley: That's yours?

Clifford Thomas: Yes.

Commissioner Tuley: Okay. Well, I'm trying to get my bearings down so that I know where I'm at.

Clifford Thomas: Right, yes.

Judy Fleming: And your house was with a spindled porch, you said?

Commissioner Tuley: There's a spindled railing on the porch, painted with white.

Judy Fleming: That's his, yeah.

Commissioner Tuley: Yeah, okay.

Judy Fleming: And then my driveway is right next from that, and the Lovell's goes off this way to mine, right there.

Commissioner Tuley: Okay.

Judy Fleming: The red brick house.

Clifford Thomas: Uh-huh.

Bill Jeffers: Well, now all the...all of the drainage from Section II, which I squiggled in green, that will all be going to Carpenter Creek, and headed south before your water enters Carpenter Creek.

Judy Fleming: Even their own gutters, everything else--

Bill Jeffers: Everything.

Judy Fleming: --on the storm...will run down this way?

Bill Jeffers: It goes through these two detention basins. Here's one here right before you get to the creek.

Clifford Thomas: Okay.

Bill Jeffers: And here's one over here.

Judy Fleming: Okay, I've noticed now...I drive by on Hogue Road, you know, next to where the first area they are clearing off at.

Bill Jeffers: Uh-huh.

Judy Fleming: They have a big, like a gully--

Bill Jeffers: This is all--

Judy Fleming: --cleared right down through here.

Bill Jeffers: --Section I here.

Judy Fleming: Okay, and they have a maybe a fairly wide path cleared out.

Bill Jeffers: Uh-huh.

Judy Fleming: Is that for any reason in particular?

Bill Jeffers: That would be the entrance road.

Judy Fleming: That's the entrance road?

Bill Jeffers: Yes, ma'am.

Judy Fleming: That's close to the property line then, of all of us down through--

Clifford Thomas: Are you talking about this one down here?

Bill Jeffers: That's Section--

Judy Fleming: Right down through here.

Bill Jeffers: That's Section I's entrance road. It comes off of Hogue Road.

Judy Fleming: That's going to be this section.

Commissioner Tuley: That comes off of Hogue Road.

Judy Fleming: It comes off of Hogue Road up in here?

Commissioner Tuley: Yeah.

Bill Jeffers: Right.

Clifford Thomas: You talking about this clear spot back here?

President Mourdock: It's in the area we're looking at right now.

Judy Fleming: They're clearing off some property right in here--

Clifford Thomas: That's for the sewer.

Judy Fleming: --it's like it's all--

Bill Jeffers: That could be for the--

Clifford Thomas: Other side of the Lovells.

Bill Jeffers: There's a detention basin--

Judy Fleming: Uh-huh, yeah.

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Bill Jeffers: --in Section I which has already received approval. There's a detention basin in this area that slows the water down--

Clifford Thomas: Okay, good.

Bill Jeffers: --before it leaves and goes down here.

Clifford Thomas: Well, that's going to be helpful to you.

Judy Fleming: A detention basin?

Bill Jeffers: Yes, ma'am.

Clifford Thomas: A pond.

Judy Fleming: Oh, it's a pond?

Clifford Thomas: It collects a lot of water and lets it seep in and evaporate off.

Judy Fleming: Oh, okay.

Clifford Thomas: That's what we were concerned about.

Bill Jeffers: It holds it up here on the hill--

Clifford Thomas: Right.

Bill Jeffers: --and releases it at a rate slower than what it was calculated to do.

Clifford Thomas: Flood stage.

President Mourdock: Rather than just let it rush on down there.

Judy Fleming: Okay.

Clifford Thomas: What about from here to here? Is this just going to be left natural then?

Bill Jeffers: Right. That's someone else's property.

Clifford Thomas: Okay.

Judy Fleming: That's someone else's property right in there?

Clifford Thomas: Yeah, it's probably John's.

Bill Jeffers: On this side of the line it's someone else's. There will be a riprap dissipater here to...so it doesn't come out in one big tube.

Clifford Thomas: Uh-huh.

Bill Jeffers: It'll spread it back out, and then it goes back down its natural path.

Clifford Thomas: Now, for the calculation of all this water coming down in a more rapid fashion than it might with the natural--

Bill Jeffers: Right.

Clifford Thomas: --detentions that it would have, has it been calculated...Carpenter Creek is going to, you know, I mean, has that been looked at? Is Carpenter Creek going to end there?

Bill Jeffers: Well, what it does--

Judy Fleming: It doesn't now.

Bill Jeffers: --it takes the rainfall that would occur during a 25 year storm--

Clifford Thomas: Uh-huh.

Bill Jeffers: --on developed surfaces, rooftops, pavements, and holds it in these basins, and then there is two more in Section II. There is also one that extends over here into Section I and II. It holds it in those basins and it releases it at the 10 year storm rate for undeveloped land. So it reduces it by a substantial percentage, the release rate.

Clifford Thomas: The release rate, right.

Bill Jeffers: In cubic feet per second.

Clifford Thomas: Okay. That's a--

Bill Jeffers: So you have a reduced rate of flow over a longer period of time.

Clifford Thomas: Right.

Judy Fleming: Can you show me on my map where this basin is going to be, on this small map? Because my property is right in here. Section B and C.

Bill Jeffers: Okay, this is Section I over here.

Judy Fleming: Do I have it right? That's mine down there. I should be right here.

Bill Jeffers: And this is Section II.

Judy Fleming: I get my (inaudible).

Bill Jeffers: I can't see the easement line on it, but to the best of my recollection it is taking the water off of these streets and running it down into about this area here, and holding it right about there.

Judy Fleming: So, right here?

Bill Jeffers: Approximately, here.

Judy Fleming: And then will it come down? Because now I get a terrific amount of water, rainfall coming down--

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Bill Jeffers: After it is held here it will be released--

Judy Fleming: There's a ditch that comes down through here on this piece of property.

Bill Jeffers: Right. Here is the ditch right here. This one right here.

Judy Fleming: That's this.

Bill Jeffers: It'll be released into the same ditch.

Judy Fleming: Well, the ditch comes on my property.

Bill Jeffers: Right.

Judy Fleming: Okay. Right now it's (inaudible) it's taken big chunks out because the water comes through there so fast.

Bill Jeffers: Uh-huh.

President Mourdock: The drainage plan that's already approved for Section I will act to slow down the water coming through towards your property.

Judy Fleming: Do you think it should be better than what it's been?

Commissioner Tuley: Theoretically speaking.

Bill Jeffers: Theoretically, it will be at a slower rate--

Commissioner Tuley: Right.

Bill Jeffers: --than it's been.

President Mourdock: If we get a 50 year rain storm like we did on June--

Commissioner Tuley: It's not going to do it.

President Mourdock: --the 2nd or whatever it was, it won't matter, because--

Bill Jeffers: It'll go over the top.

President Mourdock: --it will be whatever it will be. But for most normal rainfall it will tend to be a better one for your property. Section II, that we're dealing with this evening, is totally below your drainage?

Judy Fleming: Uh-huh.

Clifford Thomas: Yeah, it's down the street from us.

President Mourdock: So that's kind of a moot point as far as you guys are concerned.

Judy Fleming: So you're dealing with Section II--

Bill Jeffers: Most of it will be gone.

Judy Fleming: --really, I'm dealing with Section I, on my concern. I'm not even adjoined to Section II.

Bill Jeffers: That one was approved a couple months ago.

Judy Fleming: Well, I got this letter in the mail to come...for this meeting, though. That's why I'm surprised I even...it was even addressed to me then.

Bill Jeffers: They don't want anyone to go unnotified at any time.

President Mourdock: They go out of their way to notify you.

Clifford Thomas: Is that the notice you got in November?

Judy Fleming: I got one in November, and one just recently.

Bill Jeffers: The one you got in November was for Section I, and because Section II is part of the entire project they want to make sure that all people are notified so that--

Judy Fleming: Okay.

Bill Jeffers: --no one would come in later and say we were on vacation or what have you.

Judy Fleming: There's also a meeting on May the 6th or 7th, but that has nothing to do with the Drainage Board though?

Bill Jeffers: That would be Area Plan Commission--

Commissioner Tuley: The Planning Commission.

Bill Jeffers: --where they'll discuss density, traffic patterns.

Judy Fleming: Oh.

Bill Jeffers: And then we'll have another Drainage Board meeting, and I'll be happy to meet with either one of you, or both of you at the site, if you'll call, I'll give you a number to call--

Judy Fleming: Please.

Bill Jeffers: --before the next meeting, which will be approximately one month from today.

Judy Fleming: Thank you.

President Mourdock: Okay, so we can keep moving, thank you.

Bill Jeffers: June the 1st.

President Mourdock: June the 1st? Okay, Pat, Bettye Lou, so we can keep moving here, I think we've answered the questions officially at this point--

Commissioner Jerrel: Okay, I'd like to--

President Mourdock: --for preliminary.

Commissioner Jerrel: --right.

Bill Jeffers: If I'm not there, then you leave a message and I'll come out, and if there's something that we can incorporate into this plan before next month if needed to be done, we could do it.

Clifford Thomas: Thank you, sir.

Judy Fleming: Thank you.

Commissioner Jerrel: Okay, and I'll make a motion then to give preliminary approval to the Winstead Place Section II.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Spring Park Subdivision - Final drainage plan

President Mourdock: Okay, the next item on our agenda is the final plan for the Spring Park Subdivision.

Bill Jeffers: Is there anybody here from Spring Park?

President Mourdock: Uh-huh.

Commissioner Jerrel: That's what you needed to sign. I'm sorry, I didn't explain.

President Mourdock: Okay, where--

Bill Jeffers: Okay, first of all I apologize for kind of the messiness of those plans, but what you're looking at is basically my review notes superimposed on a set of drainage plans that were submitted by Easley Engineering. This is Spring Park, which is located just west of the intersection of Booker Road and Red Bank Road. It's a part of the Kokies Westhaven Gun Club property that was sold to Mr. Bolin. It's...Kokies itself, the clubhouse and everything is on higher ground up above this. This is off the side of a bare rock escarpment that falls down into a natural creek valley and then up the side of some very hilly ground that abuts on the backyards of the homes along Red Bank Road. Then to the very south of this where the creek empties out of this project it empties immediately into Westhaven Hills, which is a fairly large established subdivision whose entrance road is off of Red Bank Road, oh, maybe a little less than half mile south of Booker Road, also on some very hilly ground that you may be familiar with. I prepared some notes here because of some concerns that our office has had over a period of time with regard to this subdivision, and I'd like these notes entered into the record. This site is very hilly and has experienced severe erosion prior to development in what you might call its natural state. These development plans divide the tract into 30 small lots which will be served by streets set at grades as steep as ten percent, which is the steepest allowable grade for a street. The increased runoff after the development from these streets, driveways, houses and patios will

travel at a higher velocity, and will reach the main receiving stream, which is a natural creek. It will remain...it will arrive there undetained, and this creek is along the west boundary of the project, which is at the bottom of your page. The drainage plan is to detain this increased volume of runoff in the natural creek bed behind two check dams, which will be constructed of riprap gabions, which are large wire baskets, square shaped building block baskets, filled with riprap. This isn't a...this is an established method of construction and it has been used in Europe. It has been used in America. It has been used to...for this very purpose in the town in Newburgh. It has remained in place at that location in Newburgh for three years and served the purpose without failure for three years. The stored water behind these gabions will be released at a controlled flow rate through the weirs in these check dams. Due to the steep highly erodible terrain and the density of development planned here, which is upstream of these detention facilities, the Vanderburgh County Surveyor's Office has reviewed the plan with a great deal of scrutiny. The following comments are presented to be entered into the record so there is no misunderstanding as to the Surveyor's apprehensions about drainage problems that could plague this development unless the utmost care is taken to implement all the details of this drainage plan and the attached erosion control plan for this project. In some cases additional measures may have to be implemented when unanticipated conditions are encountered during or after development of this Spring Park. The County Surveyor expects the developer and his engineers to assume responsibility for developing contingency plans and generating shop drawings as these conditions are encountered, and to submit these plans and drawings to the County Surveyor so we may file them with the approved final plans. This isn't anything out of the ordinary. The drainage ordinance includes a provision for submitting plan changes, shop drawings, and "as built" plans because we do anticipate people developing parcels of property that will encounter severe problems. In addition, we...since we anticipate unavoidable plan changes we will require "as built" drainage plans per your drainage ordinance requirements to be submitted at completion of the project. The "as built" will be filed with the original plans made available to individual property owners and to the Subdivision Owners Association when they're needed for maintenance and repair. Okay, so here's the concerns I have, and they're numbered on your drawing 1 through 10, I believe. Okay, number 1, first I made an oversight during the review, and that oversight resulted in the omission of an easement that is needed for a drainage pipe from the street right-of-way in front of Lot 6, diagonally across the northeast corner of Lot 6, and an emergency overflow channel is also needed, which would run along top of this pipe and within the same easement, just like the emergency overflow that's designed and shown on Lot 9. This would prevent over the curb flow to run downhill, down the driveway, into the garage, or against the foundation of the house. We missed that because that pipe just barely skirts outside the right-of-way for the street, and I caught that today, and we're going to ask them to add that to the plat. Okay, now since the site is not FEMA designated Zone "A" floodplain, the finished floor elevations two feet above the 100 year flood are not required by law. I'm not going to get any help from the Building Commissioner on this, is what I am saying there, or the Floodplain Management Committee, or anybody else. But our observations of this site over the past two years has revealed some flooding outside the east bank of this creek. Now, we feel

additional water will enter the creek, undetained, and then be held behind the check dams I mentioned before. Those check dams are approximately three feet high, so the water may be held up to three feet higher than prior to development during extreme rainfall events, such as the 100 year flood, or a 100 year rain that occurred June 9, 1996 when we did observe minor over the bank flooding at a location approximately across Lots 1, 2, and 3, but not significantly close to the house foundation shown. What we're worried about is the check dams may raise that slightly. Therefore, we feel responsible and notify the Board and the developer, Mr. Bolin, that we are very apprehensive about basements along this creek, and we are generally apprehensive about basements on all Lots numbered 1 through 14 for the following reasons. I've circled number 2 on Lot 13. We're apprehensive about a basement on that house due to its proximity to swale number 1. You can see that runs right next to the foundation of the house. The swale carries off-site drainage from homes who have a Red Bank Road address, and the driveway that crosses that swale might act as a dam causing water to back up into the basement window wells, if there were a basement. Now, the engineer inserted a note on what you're looking at there indicating the need for a depressed saddle across that driveway to let the high flow from high rainfalls cross the driveway without flooding the house foundation. The engineer should be consulted by the builder for exact construction details, and for grade staking in the field when the driveway is poured, and extreme care should be taken to install the driveway according to those details and grade stakes. Number 3 is circled on Lot 14, which is around the other side of the cul-de-sac. Our concern about a basement on Lot 14 is due to the extremely close proximity to the house foundation of swale number 1. Again, it touches...the top of the bank of the swale actually would touch the corner of the house that's shown on the drawing. It has been our experience when open swales are this close to the house, such as a certain lot in Oaklyn Subdivision, the buyer either convinces the builder to pipe the ditch, or alters the ditch himself after the house is built. In most cases when this happens, the pipe is undersized for heavy storms, and the ditch flow backs up into the crawlspace vents, or down into basement window wells. That's why we're concerned about that location. Very careful grading of that lot is going to have to occur, and no obstruction of that swale will be...should be tolerated. Number 4, our concern about a basement on Lot 12, which is around the other side of the cul-de-sac, is due to the potential of over the curb flow from the street inlet that's shown as a double street inlet. We convinced them that a single street inlet was not good enough at the bottom of that ten percent grade, so they put a double street inlet in. But we still feel that...and they have an emergency overflow over to swale number 2 that empties into the ditch. However, we think extreme care should be taken in constructing that driveway so the water doesn't run down the driveway or across the yard into basement window wells or the garage. Number 5, our apprehension about basements for the rest of the lots from Booker Road entrance, Lot number 1, all the way down to Lot 11, is the fact that the basement walkouts face the creek. The consulting engineer set the elevations for these basement floors two feet above the top of the creek bank, at the lowest end of each yard. This may be sufficient, but we remain apprehensive due to the unknown effect of the check dams during heavy rainfall. Therefore, we feel the developer should have his engineer determine a more exact expected high water elevation if and when a basement

is planned for any of the Lots numbered 1 through 11. Now, that may sound confusing, but what I had presented to me showed a basement under each one of those houses. I'm looking at a plan that shows basement elevations for every house on Lot 1 through 11 facing the creek. When I expressed this concern to the engineer at Easley's office he said, those basements are set two feet above the creek bank. When I expressed my concern to Mr. Bolin he said, well son for example, the house on Lot 1 doesn't...is not going to have a basement. It's a two story set on a crawl space. So what I'm saying here basically is, if Mr. Bolin continues to build houses down along this row of homes on Lots 1 through 11 without basements my fears are addressed, and I'm not going to...I mean, fine, you know, but as anyone knows, when you build a foundation eight to ten feet high to achieve a finished floor elevation two feet above the street, and if you check these street grades against the finished floor elevations, you'll find that almost every house on Lot 1 through 11, the finished floor is at least ten feet above natural grade. If it were my house, the cheapest floor space would be to pour a basement floor for \$10.00 a foot and finish it at a later date. So that's where my apprehension comes in, and what I'm asking for is that if someone wants a basement floor on one of these houses, they go to Easley, or their engineer of choice and determine a more exact expected high water elevation with regard to these check dams and set the elevation accordingly. Okay, number 6, there is a very detailed erosion control plan based on the Indiana Handbook for Erosion Control. We asked that this be made a part of the drainage plan, and it has been made a part of the drainage plan by the developer and his engineer. We asked that due to the severely eroded conditions at the site and the anticipated impact of development. All the erosion control measures shown on the plan should be implemented along with the drainage facilities at the same time, and should be maintained stable throughout the development for as long as it takes to finish. Detailed drawings and narratives are available upon request from our office. They're also available from the erosion...from the Soil Conservation Service. When individual lots are turned over to the homeowners, the individual property owners may wish to continue erosion control methods shown on these plans, it would be to their best interest if they did. There's a Homeowners Association who will be responsible for the repair and maintenance of all the drainage facilities outside of street right-of-way, and they definitely should have all pertinent detailed drawings and narrative literature related to the erosion control plan. Again, those will be available from our office. Number 7, the grading details shown on the plan you're looking at are one foot contours, and they're intended to assist the developer in preparing this site for construction of homes. That would be moving dirt around and leveling pads to start the construction of a home, and they're intended to give you a building pad that will be suitably positioned with regard to the street grades and the natural terrain. After the house foundations are set by the homebuilder, post construction yard grading must take place to create sufficient dirt grades away from the foundations to prevent flooding of crawlspaces and basements. That's normal procedure for the Building Commissioner, a six inch fall on the first ten feet. However, we asked the engineer to go beyond that, and there are details attached to these plans that show a one foot fall to create swales around these yards to divert downhill water from rushing up against patios and basement doors, etc. After the houses are...after this yard grading is accomplished, additional

protective yard grading and landscaping may be necessary due to individual house designs. Not all of them are going to be square as shown on this plan. Room additions, swimming pools, patios and other anticipated conditions encounter in the field. So what I'm saying there, most importantly, the homeowner should not alter any protected grade, nor obstruct any swale that was left there by the developer or any other drainage features intended to convey storm water away from the foundation, and especially not the emergency overflows from street 1, which is the long entrance street down to the creek. Number 8, all maintenance and repair of storm sewers; storm water facilities outside of county accepted street right-of-way, such as ditches, pipes, rock chutes from the end of pipes, riprap ditch revetment that will be necessary to keep erosion under control; swales, which are shallow waterways to convey water away from the homes; protective yard grades, for the same purpose; emergency overflows from the streets to allow the accumulated heavy rainfall in the street sags to come over the back of the curbs during storms that the inlets can't handle and move between the houses down to the creek; those are all shaded in pink.

Tape change 7:46 p.m.

The creek itself is another facility that will have to be maintained by the homeowners and their association. The check dams, which are the gabion weirs, and the common area of land on both sides of the creek, which is listed on here as a linear park for drainage easement, and natural...nature conservacy dedicated water. Fancy language for a big, wide drainage easement that the county does not want to maintain, and that the homeowners have agreed to maintain. All this will remain the responsibility of the individual lot owners and the Subdivision Owners Association, while the County Surveyor and other agents of the county government will remain available to provide copies of the drainage plan, the erosion control methods, etc., it will be the lot owners, and their association who bear the responsibility for the care and the repair of these facilities. The fact is, after construction conditions change, after the county inspectors view and recommend acceptance or approval of finished streets and drainage facilities, many changes are unauthorized and never brought to our attention until they cause a severe problem, years in the future. Individual lot owners are notified on this plat of their responsibility to prevent all unauthorized alteration to the drainage facilities. Number 10, a significant natural watercourse exists on the south side of Lot 24. You can see by the contour lines on your drawing that a significant amount of water comes down out of 3008 North Red Bank Road, and runs very close to the house foundation on Lot 24. A note is on your plan, and will be on the plat that's recorded explaining the importance and the care of this natural surface watercourse. Extreme care should be taken to prevent obstruction or erosion of this area. Another watercourse like this exists between Lot 17 and Lots 21 and 22. The same care to protect it from erosion and obstruction is needed. However, the one on Lot 24 is much more critical due to its proximity to the house foundation and the fact that it dumps directly into a street that's going to be maintained by the county. These notes are entered into the record of this meeting to inform all concerned parties of certain apprehensions and concerns of the County Surveyor as the reviewing and recommending agency for this plan, and a copy of these comments will be provided to the developers of the...of Spring Park and to

their consulting engineer by my hand, or by registered mail tomorrow.

President Mourdock: Okay, questions from the Board?

Bill Jeffers: I've added a little note down here.

"The developer should also consult his engineer and the County Engineer about the advisability of installing at least two more streets...two more street inlets near the intersection of street 2 and street 3 to capture gutter flow before it hits that ten percent downhill grade towards the intersection of street 1."

Now, I know I've taken a lot of your time, but I felt it was necessary because of a similar development that has haunted me for 12 years.

President Mourdock: Okay, and there is a couple sitting in the audience who deserve the patience award since they've been sitting there since 5:30 this evening. So you get first shot at this. Do you have any questions or comments?

Commissioner Tuley: They're the developer.

Don Bolin: My name is Don Bolin. I'm the developer.

President Mourdock: Okay.

Don Bolin: This is like Mr. Jeffers said, it is a hilly area. But the west side of Evansville is hilly.

President Mourdock: Uh-huh.

Don Bolin: We build on the west side of Evansville, in the hills, and along with his recommendation and advice, we listen to him and we'll do what he recommends. Along with the Building Commissioners inspection of every house, the grades will be like they, Mr. Jeffers wants, and like the Building Commissioner wants, and what common sense also will tell you that needs to be done.

President Mourdock: Okay.

Don Bolin: Outside of that, I don't have anything else.

President Mourdock: Okay, I know I've sat through a couple meetings related to the other area, the bad experience that Mr. Jeffers is referring to, so I know one of the key points that you made early on, Bill, in your comments, were or was that if, in fact, there are no basements out there that relieves a lot of your concerns for a number of those lots.

Don Bolin: The Lot number 1 that he is talking about we've got a crawl space...we've got two people living in apartments for the last year waiting on this project to come forward, and they're not too happy with me. But the first house is a two story over a crawl space. It's on Booker Road...at the corner of Booker Road, is the first one.

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President Mourdock: Uh-huh.

Don Bolin: Some of those lots down there...the two foot that Mr. Easley...I wasn't aware that it was on the plat, but if the two foot is too low then we'd raise the basements up, but some of those lots need to have basements under them for the simple reason that Mr. Jeffers said, you'd have a 10 or 12, 14 foot block foundation underneath a house that you could very well put a basement under. There's...some of those lots probably would make more sense to put the basement under and raise the basement elevation up to whatever his requirement might be. You know, another foot or two foot higher or three feet higher, I think that they would fit underneath some of the lots.

President Mourdock: Okay. Other comments or questions from the Board?

Bill Jeffers: I haven't made a recommendation.

President Mourdock: I know.

Commissioner Tuley: I was going...that was going to be my question. I read this and I heard you, but I still haven't heard you say yea or nay.

Bill Jeffers: Well, I was hoping that Mr. Bolin was--

President Mourdock: Thank you, Mr. Bolin.

Bill Jeffers: --in the audience, and a...because I wanted to say this in front of him. I feel, I mean, there is nothing that prohibits Mr. Bolin from building a basement on any one of the lots shown on this plat. There is no ordinance or building code that prohibits that. And like he says, some of those will be as much as 12 feet...12 foot foundations, and it would be wasteful not to put basement space underneath there. All I'm looking for is an assurance by his engineer, whoever that engineer may be at the time, that the water will not back up through that walk through door, and that he takes care to grade all the yards away from the foundation in such a way that the water will drain down to the creek, and the creek water won't back up into the walk through door. I will say on...it's been my experience as...and I've been there since...at the Surveyor's's Office since Mr. Bolin developed the westside Drive-in, which was an extremely hilly piece of property. I have only...the only calls I have ever gotten, maybe three or four calls in all that time from that development, not one of them was a call on a drainage problem caused by anything Mr. Bolin did. The only calls I got were little petty things where people had put fences up or dirt or altered the grading patterns that Mr. Bolin provided at the site, was altered by the homeowner to the detriment of either the next home buyer or the next fellow downhill or uphill. I've never got a call on a problem created by the developer.

President Mourdock: With that history and given all your previous comments, so we can keep moving here, is--

Bill Jeffers: As long as that's attached to the recommendation and as a...as conditions, I am more than willing to recommend approval

of the final drainage plan for Spring Park Subdivision.

President Mourdock: Okay, thank you, Bill. Any other comments from the audience on this one? Motion of the Board?

Commissioner Jerrel: I'll move approval of the Spring Park Subdivision, final plan, I mean, yes, that's right.

Commissioner Tuley: Second.

President Mourdock: So ordered. And let the record show that it's going through with the County Surveyor's attached--

Commissioner Jerrel: Comments.

President Mourdock: --comments.

Riverwind Pointe - Final approval
--

President Mourdock: Okay, the next item on our agenda, Riverwind Pointe.

Commissioner Jerrel: Do you think we should go back to the Wexford-

Commissioner Tuley: Lets go back to--

Commissioner Jerrel: Okay.

President Mourdock: Let's do Riverwind before we do. I think it's a quickie. Is Riverwind Pointe going to be pretty quick?

Bill Jeffers: It should be real fast.

President Mourdock: Okay.

Bill Jeffers: Riverwind Pointe is a commercial subdivision located at the intersection of South Green River Road and I-164. A portion of the southeast area of the subdivision naturally flows into the right-of-way at the intersection of I-164 and South Green River Road, and the detention basin for that area is shaded in pink. It spills into the right-of-way for I-164 and therefore, INDOT must approve its design. They've indicated initial...their initial indications are that they are going to give approval of it, and the design engineer, Rodney Young, is here in the audience if an explanation is needed, but he had to do some recalculations as far as the drainage area was concerned. But they've indicated their intent to approve it, although as of 4:30 today I haven't seen the letter. Okay, the rest of the subdivision naturally flows towards Aiken Ditch, and that's the green shaded pond, it will serve that area, and the emergency overflow for that pond is shaded in green, and it flows north to the boundary with Carneal Subdivision, which is already an approved development. Then it will share an easement with Carneal that discharges into Aiken Ditch. Aiken Ditch is our regulated drain for that part of the southeast side of town. That goes down to the K-1 pump station and the Levee Authority pumps that water through the levee, which is I-164 and over to the river side of the levee. Okay, what the only...the only concern I have on this, we're going to recommend final approval at this time with the

condition that INDOT sends their letter of approval because they supersede our authority, and that the developer, Mr. Mike Feldbusch, present, you know, at the time he's going to record this plat, he has to present a recordable document showing agree...you know, purchase and agreement of the rights to use the off-site easement that Carneal is using, which means he is going to be sharing in the cost. When they...they appear to be in negotiation right now as to the cost, and when they arrive at an agreement he will have a recordable document showing that the emergency overflow for this entire project can pass through a facility that's been designed for Carneal and is being constructed by Carneal. Those are the two documents I'm waiting for. I want to go ahead and grant final approval conditioned on those two documents so that as soon as they come he can record the plat. He already has plans for a five story office building.

President Mourdock: Okay. Any questions of the--

Bill Jeffers: Like I said, Mr. Young is here in the audience.

President Mourdock: --Board? Any questions from the audience on Riverwind Pointe? Choice of the Board?

Commissioner Tuley: I'll move approval.

Commissioner Jerrel: And I'll second Riverwind Pointe.

President Mourdock: And is that contingent upon the approval of INDOT?

Commissioner Jerrel: Yes.

Commissioner Tuley: Two conditions put on there by Mr. Jeffers.

President Mourdock: Okay, with that motion, that amendment, and that second, I'll say so ordered, and that was final approval.

Wexford Estates - Preliminary drainage plan

President Mourdock: Okay, now we're back to the Wexford Estates. Do you have a spokesman at this point? Alright, Mr. Mattingly.

Bill Mattingly: I think everybody wants to speak, I don't know. I was looking at...maybe you can help me.

President Mourdock: This is Mr. Mattingly.

Bill Jeffers: Right.

Bill Mattingly: I got this out of his book. On the floodplain of that area, right here--

Bill Jeffers: Right.

Bill Mattingly: --which takes in one, two, three, four houses that I know of. I don't know what the rest of them are back this way.

Bill Jeffers: Right.

Bill Mattingly: But...and then--

Bill Jeffers: That's for that main branch of Little Pigeon Creek that goes on up towards--

Bill Mattingly: Right.

Bill Jeffers: --Darmstadt Road.

Bill Mattingly: Well, this is the creek that they're going to be putting all this water in right here that ties in--

Bill Jeffers: Right. It's--

Bill Mattingly: --right at Eissler Road there--

Bill Jeffers: Right.

Bill Mattingly: --right?

Bill Jeffers: Uh-huh.

Bill Mattingly: And then you got the water coming this way out of this, I believe Villas comes down--

Bill Jeffers: But it--

Bill Mattingly: --through here.

Bill Jeffers: --cuts across and goes down--

Bill Mattingly: Okay.

Bill Jeffers: --towards Strawberry Hill there.

Bill Mattingly: Okay, and then you catch all the runoff off of these right up here.

Bill Jeffers: Evergreen Acres, right.

Bill Mattingly: This creek that runs...it runs right down through here.

Bill Jeffers: Uh-huh.

Bill Mattingly: It comes into that creek right there, it doesn't show.

Bill Jeffers: Right.

Bill Mattingly: He's says he's taken...right now this water from about right here runs...some of it...that much of that water runs this way, plus all the way back to Deerfield. It comes down through here, right? You can see that right here.

Bill Jeffers: Uh-huh.

Bill Mattingly: All this water right in here...all this water from about like that runs right down through here. Okay, and that's

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hitting all these houses here on Eissler Road. All these houses down here, running in there.

Bill Jeffers: I'm not sure that's exactly right, because whose house is this?

Bill Mattingly: That's my house. I know exactly where that water goes.

Bill Jeffers: Right. And that water--

Bill Mattingly: I've been there since '71. I know right where it goes.

Bill Jeffers: When it hits your driveway it runs downs this way, doesn't it?

Bill Mattingly: No, no. It comes down behind my house.

Bill Jeffers: The water from up here does?

Bill Mattingly: Right. All the water...all this water right here comes behind my house--

Bill Jeffers: Okay.

Bill Mattingly: --right there.

Bill Mattingly: Some of it goes down my driveway also.

Bill Jeffers: Right.

Bill Mattingly: Because it washed...I've got a little 13 year old--

Bill Jeffers: Well, I saw how big you were--

Bill Mattingly: --that doesn't like picking up gravel all the time.

Bill Jeffers: --so I didn't drive all the way back up your driveway.

Bill Mattingly: Were you there Saturday morning?

Bill Jeffers: Yes, I was. I only went...I only went--

Bill Mattingly: I wish you would of come up, I had a shotgun in my hand, I'm sorry, but--

Bill Jeffers: I only went part way.

Bill Mattingly: --I just got back from turkey hunting.

Bill Jeffers: I wondered what that was all about.

Commissioner Tuley: You thought he was waiting on you, didn't you?

Bill Mattingly: I wouldn't have...it was in a case.

Bill Jeffers: I didn't know how he knew I was coming.

Bill Mattingly: I hollered at you, but you kept going.

Bill Jeffers: Yeah, I sure did. Okay, so yes, he's now rerouting this water--

Bill Mattingly: Rerouting every bit--

Bill Jeffers: --through the basin.

Bill Mattingly: --of that water through the basin and into the creek.

Bill Jeffers: Okay.

Bill Mattingly: Okay, that creek has already come out of its banks three times this year so far. Did you walk in the...did you walk in this woods here? Twice already this woods, which is in front of me right here--

Bill Jeffers: Uh-huh.

Bill Mattingly: --has been solid water from Old State Road to across the creek and up into my yard. Twice already this year. And he's taking this much water and putting it back in that creek.

Jim Morley, Jr.: This water was already in the creek though.

Bill Mattingly: Not this water.

Bill Jeffers: He's talking about just back here in the corner of it.

Bill Mattingly: Where you said--

Jim Morley, Jr.: Oh, okay, yeah, I'm with you, Bill.

Bill Mattingly: --you're cresting that much of that right there.

Bill Jeffers: He's talking about this corner right here--

Jim Morley, Jr.: Yeah.

Bill Jeffers: --this area here is what you're talking about?

Bill Mattingly: Uh-huh.

Bill Jeffers: That, yeah...due to the nature of development he wants to catch it before it runs across your land and into the basin where it can be detained--

Bill Mattingly: Right.

Bill Jeffers: --and released at a slower rate.

Bill Mattingly: But this poor guy right here, Kevin, sitting here at the corner of Eissler and Old State is going to take even more water. And that floods him already. You know, because twice already this year that whole woods have been under water. From Old State Road to the creek, and on the other side of the creek. If you would

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have walked through that woods you would have seen where the water marks were.

Bill Jeffers: I was already in a car with four wheels (inaudible) you know what I'm saying?

Bill Mattingly: I know. I hope the shotgun didn't bother you, but I was really putting it in the garage. I can't see him putting that much water back in that creek. I mean, it's all floodplain in there now.

Bill Jeffers: Even though he's slowing it down and releasing it at a slower rate?

Bill Mattingly: Well, yeah, if it doesn't get stopped up or whatever, you know.

Bill Jeffers: Oh, okay.

Bill Mattingly: If he can do this or whatever, you know.

Bill Jeffers: I got you.

Bill Mattingly: If that fills up it's no different than it was before, you know? You're dumping more water in that creek--

Bill Jeffers: Now, if he doesn't do what he has on this plan, that water would run down to this pond, is that what you're saying?

Bill Mattingly: Well, if it doesn't do anything--

Bill Jeffers: Is that pond still there?

Bill Mattingly: --it's probably still going to follow--

Jim Morley, Jr.: Yeah, the pond is still there, but not much water would pick the pond up. I don't think much--

Bill Mattingly: No, not that way.

Bill Jeffers: Or if it continued through your backyard--

Bill Mattingly: It would still continue through my backyard--

Bill Jeffers: --it would hit your neighbors--

Bill Mattingly: --and hit all the houses down there.

Bill Jeffers: --you were talking about, and run down the ditch this way--

Bill Mattingly: Uh-huh.

Bill Jeffers: --into the creek.

Bill Mattingly: But that would still flood out these two people, and the third one across Old State Road. I mean, they get...the water is up to their houses all the time, you know. And you keep continuing this creek and you hit Strawberry Hill, and that's

another eyesore, and all of this is going right into those spots that...I think some of those people have a lawsuit against the county now.

Bill Jeffers: They dropped it because the county built a bridge that would handle the water. Previously, the bridge was undersized.

Bill Mattingly: Well, it was a culvert before.

Bill Jeffers: It was undersized, and they've increased it to pass--

Bill Mattingly: That's not really, you know, I know they've increased that bridge, but that creek that goes...runs all the way to Hamilton Golf Course is still with a problem, you know. You haven't helped the problem a whole lot, you know, by putting in a new bridge. But all that water is still going to go right here, and the size of those lots with the amount of houses, I mean fifty percent of that is going to be under roof, concrete or road. That ten acres, ten and a half acres. I'm not counting this guy up here. All this stuff is going this way.

Jim Morley, Jr.: No!

Bill Mattingly: His whole front-end of that house is coming this way, coming down Old State Road.

Jim Morley, Jr.: Well, but we're going...we're putting a swale along here too, to catch almost all of his also.

Bill Mattingly: And bring it this way?

Jim Morley, Jr.: Correct.

Bill Mattingly: Well, that's even worse yet.

Jim Morley, Jr.: The amount we're picking up here though, that is coming this way now. If you said you were flooding out down here in this field, that might come up a quarter inch, if that. I don't even know if you would see...I don't even know if it would be a measurable difference in that area once it comes down in there.

Bill Mattingly: You could say that, but I've lived there a long time. I've seen it flooded all the way across there lots of times.

Jim Morley, Jr.: Well, I don't...I'm not saying it doesn't flood. I'm saying any water that didn't used to go there that goes there now after this plan--

Bill Mattingly: Have you seen this ditch right here that I plowed in there 25 years ago?

Jim Morley, Jr.: Well, which--

Bill Mattingly: There's a little ditch right on this line. It starts right about up at your dad's horse fence up there.

Jim Morley, Jr.: I'm not familiar with that, no.

Bill Mattingly: I plowed it with a tractor down through there to

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try to stop some of this water. It still didn't stop it because the trees have grown up in it now and it can't follow the ditch. But it gets a foot deep in there, rushing. I mean, you can't--

Jim Morley, Jr.: So if you could--

President Mourdock: Mr. Mattingly, wait a minute. Let me set the rules here for a second.

Bill Mattingly: Okay.

President Mourdock: The question isn't so much what it does now, because if it floods now, it floods now. But I don't think anybody--

Bill Mattingly: Well, that's what I'm saying. That water--

President Mourdock: Let me finish.

Bill Mattingly: Okay.

President Mourdock: But then the issue becomes is this plan going to materially affect what it's doing now? Is it going to make it worse from what it is doing now?

Bill Mattingly: Yeah, it's going to make it worse.

President Mourdock: Well, that's the professional question that's out there right now that we're looking to get the answer.

Bill Mattingly: Okay.

President Mourdock: So the way it has been isn't necessarily relevant to it, as to just what is this going to do.

Bill Mattingly: Okay, but if he's taking this water and this water, he's dumped more water in there than it's ever had before, and like I said, it's been out of the banks three times already this year.

Bill Jeffers: Well, the way I had looked at it, it all ultimately arrives at this bridge regardless of the path it takes. It all arrives at this bridge right here.

Bill Mattingly: Well, not all this water.

Bill Jeffers: Oh, yes. All--

Bill Mattingly: All this water goes down--

Bill Jeffers: It goes down--

Bill Mattingly: --this side right here. It comes all the way down through these fields this way. It doesn't even get to the bridge.

Bill Jeffers: It doesn't go through the swale that you said you plowed?

Bill Mattingly: No, not now, not anymore. Not since all the trees grew up in it.

Bill Jeffers: No, I'm saying, it all...when it gets down to Eissler Road it runs down the side ditch and still arrives at this bridge.

Bill Mattingly: At that point.

Bill Jeffers: Right. Ultimately, all the water from this site either continues this way and runs west on Eissler and arrives at that bridge or it runs down Old State Road and arrives--

Bill Mattingly: Right.

Bill Jeffers: --at that bridge. It all arrives at that site right there. That's how I was reviewing it. Now, if it would put everyone's mind more at ease to hold this up for 30 days while I go talk to the neighbors and look at what I didn't get to see Saturday, and reintroduce this as a preliminary plan with or without minor alterations next month, that's fine with me.

President Mourdock: Have you received tonight, Bill, to your satisfaction some new information to cause you to think that's the proper thing to do?

Bill Jeffers: Yes.

President Mourdock: Alright. Is there a motion from the Board to that effect?

Commissioner Tuley: I would so move.

Commissioner Jerrel: And I'll second that 30 day extension.

President Mourdock: Okay, and I will say so ordered based on the new information received regarding Wexford Estates, and I suspect that Mr. Morley, Mr. Jeffers and Mr. Mattingly et alia--

Bill Jeffers: Sure.

President Mourdock: --feel free to call Mr. Jeffers on this one.

Bill Jeffers: Well, I'm going to call Mr. Mattingly because I just live up the road, and I can go out there over the weekend. Is that okay, to come--

Bill Mattingly: That's fine, I'd walk around with you.

Bill Jeffers: Yeah, I'd like to take a look at it.

President Mourdock: With or without the shotgun?

Bill Jeffers: We'll have some fun.

Bill Mattingly: You know there is some barn owls roosting in that same place their building is. And deer walk through there all the time and everything. Mrs. Bolton here, she watches them owls every night through a night scope.

President Mourdock: Ah.

Bill Mattingly: In this woods they're going to tear down.

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President Mourdock: Okay well, thank you all for your patience in sitting with us.

President Mourdock: Bill, the next thing I have on my agenda is the Catherine Rasche order. Is that still correct?

Jim Morley, Jr.: Did that Winstead Section II get approval?

Commissioner Jerrel: Yes.

President Mourdock: Yes, it did. Yes, we did it while you were out of the room.

Jim Morley, Jr.: Okay.

Bill Mattingly: Do we have to come to the next meeting to look at this again, or what?

Commissioner Tuley: What you can work out between now and then.

Bill Jeffers: The next meeting would be June 1st, and I anticipate that Mr. Morley will have another preliminary plan ready for review and discussion for the June 1st meeting. The same place in other words.

President Mourdock: Okay.

Joe Harrison, Jr.: So if you want to come--

President Mourdock: You're certainly welcome to come.

Joe Harrison, Jr.: You ought to come if you want to come.

President Mourdock: You don't have to be here--

Bill Jeffers: You're hereby notified, June 1st.

President Mourdock: --but we appreciate the new information this evening.

Joe Harrison, Jr.: It'll be after our regular meeting at 5:30, so it'll probably be around 6:00 or 6:30 when that meeting starts.

President Mourdock: Okay.

Joe Harrison, Jr.: On June 1st.

Bill Mattingly: Thank you.

Catherine Rasche - Order to remove obstruction

President Mourdock: Okay, the next item then, and Ms. Rasche has been very patient here, and we appreciate that. Bill, do you have comments on the Rasche action or I'll turn it over to Ms. Rasche and...

Bill Jeffers: Well, basically your legal counsel sent a notice or an order to the Rasches after the Court decision by Judge Palmer in Gibson County notifying the Rasches that they had until, I believe

it was April 7, 1998 to comply with the order, and also notifying the Rasches that if they did not comply by the date, April 7th, that our next regular meeting of the Board would be April 27, 1998. At which time, the Board would hear additional information and receive a recommendation from our office and take action on that.

President Mourdock: Okay.

Bill Jeffers: Subsequently, Mr. Ken Rasche, is that right?

Ken Rasche: That's right.

Bill Jeffers: Mr. Ken Rasche, on behalf of his mother, Mrs. Catherine Rasche, sent notification to your attorney, and I got a copy of it at our office saying that they had...were or were going to or had contacted Floyd Staub Incorporated to receive price quotes on certain work. Mr. Harrison responded in his way to Ken Rasche's letter, and I also responded saying that the work that they were receiving quotes on, which Mr. Rasche represented as the cleaning out of the dirt that was placed in the ditch, if they went through with that, that would substantially comply with the order because it would, as it says on page 11, restore the open waterway as it existed prior to its filling with dirt. But I also pointed out to Mr. Rasche that the order of the Court included the Court's determination based on the body of evidence that certain work needed to be done to a partially clogged culvert that lies behind the respondents Mill Road address, at 20 Mill Road, and also some clearing and cleaning of an open channel that's an extension of this waterway from the partially clogged culvert down to the Mill Road Baptist Church parking lot, and subsequently, to Mill Road itself. And then Mr. Rasche called me back and said he had two different prices. He had one price for just the waterway work, removing the dirt that had been placed there, and he had another price quote based on some work being done to the culvert, and I'll leave it at that because I believe the Rasches would like to express their feelings about the cost of the culvert work.

President Mourdock: Okay, Mr. Rasche, please. You'll need to state your address too.

Ken Rasche: My name is Kenneth Rasche. I live at 505 Brook Meadow Circle in Evansville, Indiana.

Janice Bollinger: I'm Janice Bollinger at 4319 Kratzville Road of Evansville.

Ken Rasche: I guess first, I would like to thank Mr. Bill Jeffers and Mr. Joe Harrison for talking to me on the phone on a couple occasions about this matter. Second, I would also like to say that we don't really agree with the findings and or the appeal, but given the representation and the way our side was handled, we don't...we don't...we also feel that it's understandable how those decisions came to be. The order was for removing the obstructions. After talking to Mr. Bill Jeffers, he recommended that I go ahead and get quotes for also changing the culvert, which has been on the property and was put in by my father sometime around 1976 or 77, and I did that and the quotes from Staub...excuse me, Floyd Staub Incorporated was for \$1,600.00 for removing the landscaping that was done. I'd also like to point out that the landscaping that was

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done was in response to another complaint from the petitioners in this case. The additional cost for removing or replacing the culvert is an additional \$1,200.00. We sent the letter because my mother and I and my sister...we sent the letter because we are wanting to get this settled and the reason we have not complied to date is the ground has been too wet. My brother...my mother, excuse me, broke her leg on February 21st, so she has not been able to leave the house. Also, we also want to make sure that this is the last time that she is forced to spend money to appease the neighbors. I would like the opportunity to enter in the record some idea of what that harassment has been. I'm not sure if you would entertain that at this time since I was hoping that the Heerdinks would be present, but they're not. Another item is, you know, my mother, Cathy, is a senior citizen. She's on a limited income, and has already spent in excess of \$4,000.00 trying to satisfy various petty complaints from the neighbors, to various County and City Boards. Again, I can show the history of those complaints and her expending money to try to alleviate difficulties. And I can show, at one point, Mr. Jeffers wrote her a letter saying that he really hoped it would be handled in a friendly and neighborly fashion, and I think, we could show that she has attempted to do that with her expenditures out of her pocket. Also, at this point, we would like to point out, if we're given the opportunity, some of the errors and facts that were not admitted in the first hearing in this matter. They were not admitted because, again, of poor representation. Our attorney was not really aware of the history of the drainage in that area and or of my mother's property.

Janice Bollinger: I apologize for not clearing the matter at that time because I was in attendance at that meeting and kept notes on...line after line after line that was not true facts, but the attorney told us point blank before we left his office, 15 minutes before the meeting, that we were not to talk. He leaned across the desk and said, "I will be doing the talking, do you all understand?" So...and I apologize because we probably could have saved a lot of the headache and stuff that's gone on with you people with what's here. But what I saw presented that night certainly wasn't the entire story. And, again, our real concern is we'd like to get this put to rest in a fair way, and, you know, I'm sure that you're probably not concerned about everything that has gone on, but a lot of the things just from the fact that Mr. Rose stated that he lived there his whole life. We moved there in '70. I used to mow the lawn. I had to push the lawn mower up in the back, in both locations. My parents put the culverts in there for move across, not for waterways. We buried half of the culvert that they're wanting us to remove because it was a free culvert from our uncle in St. Meinard to save money. So we buried half of it to get it down where we needed instead of buying a new one. So, you know, when you're raising nine kids and you're a one income family, you do what you do, and you don't think it's going to come back later to your mother who's a senior citizen and cause her to take care of drainage problems that are well documented on the north side of Evansville. And probably part of the problem is she's been a good neighbor for the 30 years she's lived in Evansville, and actually, in 1986 Thekla Lax lived at the Rose...at the Heerdink address, and she had running commentary with the City about taking care of the standing water in her yard because it stood in her yard. It didn't run through hers. She allowed Fred Blumenhauer, the City Engineer, to come in, put a drop basin in the Heerdink's yard, which was

Thekla Lax's, and put tile onto her property without an easement, which they never filled in properly and ends up...she fights it now because of the runoff. But the city identified it in 1986 that it is the point where the water ran. At the meeting last time Andy Easley, who was a certified Water--

President Mourdock: Surveyor, yeah.

Janice Bollinger: --Civil Engineer, had contour maps that showed that the water flows exactly where their catch basin was put. It's a problem that we got to this point...the reason she did the landscaping in August of '96 was because a letter that she got dated in May of '96 from the Heerdinks where they wanted her to take care of the water. She had a previous problem in May of '94. The Health Department sent a letter to her about the brush up the back. What had happened, there was a brush pile that used to stop this water. It was a big problem with the water rushing down. Since we moved there was a brush pile that we purposely put things in to slow the water down. When she asked the neighbors to quit using it as a community pile because it wasn't dissolving soon enough...again, she let everybody in the neighborhood up and down there throw the brush on there because it would dissolve. Well, as more people cleaned their yards up, because our whole back used to be woody, it couldn't dissolve fast enough. So she asked everyone to please stop putting brush on the pile. That's when it started with the neighbors and the Health Department, the weed control, and now we're at the Drainage Board. She's 68 years old. She just went through six and a half weeks of being homebound with all this on her mind. She really doesn't deserve that. We'd like to do what's right and fair. But I think we have to have closure on this where we don't have to wonder what city agency they are going to go to next, and her answer with. So in '96, I'm sorry, in '94 they called the Health Department. She had \$2,000.00 worth of work done at that time, where she put in an oversized culvert, took out six tandem axle loads of everything, and had them totally rework it to appease the neighbors. Well, what happened is when she took the brush pile out what happens? The brush pile that used to slow the water that they complained about, now they're complaining about this. She's had over \$4,000.00...and again, it's just the knee-jerk reaction. They find an agency, she tries to respond. They find an agency, she tries to respond, and we've told her, she has got to stop trying to respond because I don't see an end to it. Honestly, at this point, if we take the dirt out...and in the minutes, it is...Mr. Heerdink admits that he would go on her property, he says to maintain a ditch, he was digging a ditch. I was there when his wife came over to my mother's house because she got upset because she caught them yet again digging the ditch. So we talk about a natural waterway, well, when is it natural? What's maintaining it? When your neighbor comes, not onto his property and digs the swale out, but onto yours and digs it, is that maintaining it? Or is that trying to take care of a problem that has been there since...and noted in the City records since 1986. So, again, we're just trying to get it to be what's fair with this. But there's a lot of facts that our attorney...this thing...we have pages of things that are not correct that we think about.

President Mourdock: Okay, well I appreciate your comments as far as submitting something for the record. You're certainly welcome to do that. I heard you say a moment ago you'd hope that some of the

respondents or petitioners, I guess, whichever, Mr. Heerdink isn't here, and I have a feeling you wanted him to hear it. Obviously, since he's not here, if you want to submit it in writing, or whatever, that's fine. The comments that you just made regarding your representation, obviously, that's an issue between you and your attorney. I can't...and I'm speaking as one member of this Board here, I don't know if all those factors would have ultimately lead to a different result through this whole thing or not because just as you've heard from the judge in Gibson County, who responded to this, this Board is forced by Indiana law to deal with certain issues and certain ways as well, based on the facts that we had before us. We did what we had to do. From the point of view of is there closure on this thing? Again, we're just one Board. If some neighbor runs to some other Board or whatever, we have no control over that. We hope that, in fact, this is closure. I heard Bill say when he was at the microphone that if the material was removed it would...what was your words there? Substantially meet the obligations of the Court order, something like that. You know, if that's what the Court order says, and that's what you're going to do, as far as this Board is concerned, then that does end the issue. One other quick point I'll make, is you just talked about a natural drainage way. Believe me, that's one question from the time that Indiana law was passed about three years ago, no one knows what that means. I'm not an attorney, but I'll tell you, anything that has that language in it is classically defined as bad law. Because it could mean anything to anybody, and as long as water goes downhill in any structure, I guess that's a natural drainage way. So we appreciate your comments. We appreciate the fact that you are acting to correct the problem that's there. History is history here, and I wish we could deal with history, but obviously, we have to deal with present facts.

Ken Rasche: Okay, and you're referring to the Indiana law, I assume you mean the statute that went into effect July 1st?

President Mourdock: That's the one and the same, yeah.

Ken Rasche: But I believe in there it requires that the blockage or obstructions be intentionally done. The landscaping, although it was not intentional to block the waterway, and that the landscaping was paid for and contracted to do, the culvert was not intentionally put in there. It was put in there to aid drainage 20 years ago and that's where we have the problem with some verbiage in the order that hinted to removing the culvert or replacing the culvert, and we don't see how that's appropriate given the statute and the history.

Joe Harrison, Jr.: Well, the judge's order is the judge's order. There...again, there is some discretion with regard to the replacement of the undersized and partially clogged culvert. Mr. Jeffers can respond. But the judge did uphold this Board's order when they recommended that the restoration of the waterway as it existed prior to the filing...filling with the dirt, replacement of the undersized and partially clogged culvert, and clearing and cleaning of the part of the subject waterway downstream from the culvert. Judge Palmer's decision upheld that order of this Board. I know Mr. Jeffers is willing to go out and review the pipe area once it is unclogged. That's something that has to be done. And I don't know if the pipe that's there now will be, once it's

unclogged, will be sufficient or not. I think that may have to be something that's determined when Staub is out there doing the work. But the pipe has to be usable in some fashion. Whether it's replaced or not...it doesn't have to be upgraded. I mean, you don't have to put in a 30 inch pipe or anything like that. I mean, there's no requirement of upgrading anything. It just has to be a workable pipe of the same quality that was there before. Whether or not that pipe is the same one or not, I think will have to be determined by Mr. Jeffers. Is that...

Bill Jeffers: That's correct.

Joe Harrison, Jr.: Yeah, why don't you--

President Mourdock: You know, the last thing we want to have you do, the last thing, is have you take some actions whatever you feel is appropriate and meet the Court's order, have Bill say, yeah, that meets the Court's order, this Board is happy, and then have another neighbor come back in and say, oh, but the Court's order said da-da-da-da-da, and this isn't exactly what was done. So, I mean, we appreciate the fact you're trying to get it right the first time, in a sense, cleaning this up. Again, Bill will certainly be at your disposal to inspect that or to see how we can do that.

Tape change

Bill Jeffers: Okay, well, I think that we are in agreement with opening the waterway as it existed prior to filling. The replacement, the wording says, "replacement of the undersized and partially clogged culvert" and that may be based upon my speculation that you had a 15 inch culvert, a concrete culvert, that had been placed there many years ago. It appeared that it was very worn because when I measured it, it actually measured out at a diameter that is not manufactured. It was so worn that it measured out larger than 15 inches which indicated that it was very worn.

President Mourdock: Is that a concrete pipe?

Bill Jeffers: It's concrete. Then when I got down and viewed through that 15 inch culvert, I noticed that there was a 10 inch plastic tile that had been shoved up inside of it and that's where the speculation on my part comes. That's a practice that I have seen over the years, private and public, where a culvert is collapsing or cracked or leaking or one thing or another or separating and as a quick fix somebody takes a culvert of a smaller diameter that will fit up inside the larger one and just shoves it inside like a sleeve, and that will fix the leaking or cracking problem. But what it does is, it chokes down the throat or chokes down the volume of water that can pass through it, and that is what it did there. So that represented in my mind an obstruction. Also, because it was substantially smaller it caused a collection of silt and other debris that blocked the 15 inch pipe almost half way full with silt and other debris, and that represented another obstruction. So it was my thinking that if you pulled out that 10 inch plastic pipe and cleaned out the 15 inch pipe you would substantially remove the obstructions. But I went on with more speculation that when you did that the 15 inch pipe might not be

suitable for your purposes, either as not long enough for your mowing machine to go across, or you wanted a wider pathway to cross or the 15 inch pipe might go ahead and collapse because it is in such poor condition. So I will admit that due to all of my speculation, I used the word replacement of the undersized, referring to the 10 inch, and partially clogged culvert, referring to the 15 inch, I thought that it may be easier and more economical for you to simply go out and purchase an inexpensive plastic tile of the same or larger size and accomplish what I speculated you wanted to accomplish by having a nice, wide crossing at that point. If all my speculation has lead to a misunderstanding that is going to almost double the cost, and in fact, the 15 inch pipe would be serviceable if you pull the 10 inch out from inside of it and clean out the accumulated silt and other debris from the 15 inch and it is serviceable for your purposes, then I would think that you would have met the requirement of replacing the undersized 10 inch pipe and cleaning the partially clogged 15 inch pipe. But that...I do believe that the 10 inch pipe has to come out to accomplish the removal of the obstruction.

President Mourdock: But if you did that, based upon your earlier comments, Mr. Rasche could probably save about \$1,200.00.

Ken Rasche: That's right.

Bill Jeffers: Then we do need to clean up the loose debris, and there was some fireplace size logs that had either been cut in place in the ditch--

Ken Rasche: I believe that there was one log that was--

Bill Jeffers: Well, there was some cut into chunks and maybe some other debris that had been tossed in there or left to lay. I am not judging how it got there. Just a general perfunctory clearing of that waterway from the pipe down to the Mill Road Baptist Church property line so that water leaving the pipe will follow its path down to that right-of-way.

Ken Rasche: As much of a comment as anything else, in the minutes...both Mr. Heerdink and Mr. Rose testify in the minutes from the last Drainage Board, that the ditch handled the water quite well and in his words, I don't have those right in front of me, before the landscaping was done, and that's another reason why we don't want to do additional work, we don't want to open the door for anymore actions or petitions. We want to do...we are going to quit responding.

Bill Jeffers: Well, I understand it has been very frustrating, not only for you, but for us. Because it's such a thing that we have never been involved in, and I can see that possibly some of my frustration was reflected in my choice of words here and maybe I was a little hasty. I think that what you are proposing, and if you are willing to open up the 15 inch pipe so that the entire barrel of that 15 inch pipe is flowing at full capacity, might satisfy what my intentions were in using this phrase down here.

Ken Rasche: I guess we are proposing that we move and restore the landscape area back to its condition prior to the landscaping, and we clear out the existing culverts and waterways to allow flow that

existed prior to the landscaping which initiated this petition.

President Mourdock: Do you have that drawn up? I mean, is there a plan, Mr. Rasche, that Bill could look at and say, yes, that meets the objections? If there is such a plan and Bill says to this Board, as our technical expert, that meets what the original objections were and takes care of the Court's orders, we're pleased as punch. That is where we want to get and I think that is where you want to get. We telling you--

Ken Rasche: Yeah, but we're not pleased as punch. We're not, but we're agreeing to go ahead--

President Mourdock: I understand.

Ken Rasche: --to try to rectify this.

President Mourdock: I understand. I'm saying from a point of view of having another session with your neighbors coming up here saying this, this and this wasn't done, what I am telling you is we're going to be pleased as punch as long as Bill says to us, this met the plan. Now, whether the neighbors like it not is not the issue. It is, did it meet the plan? That is what I am saying. As long as it meets the plan, the third time, we're pleased as punch, but realize that you're not.

Ken Rasche: Okay.

Janice Bollinger: I guess what he is talking about and it sounds like we are trying to get to something that will really work us through a tough situation here. What Ken is addressing is just what we talked about. We certainly want something that means what is supposed to happen, but by the same token we don't want to open the door up for...you are not the last agency.

President Mourdock: And that's right, and the only way that door is going to be opened is if what you do, in regards to this matter, is counter to the Court order and the plan. As long as you do those things then there is no other door to open as far as the Drainage Board is concerned. Now, understand what I said before. If somebody goes running to the Board of Health or the Building Commissioner or whatever we have no jurisdiction over that. All we can say is there was a problem, there was a Court order, there was a plan submitted, the plan was implemented to the County Surveyor's approval, which he is our technical expert, and the Drainage Board accepted it. If the neighbors don't like it, but it fits the plan, you've done what you need to do.

Janice Bollinger: Okay, just in reference to, again, to the minutes, when I guess Alan Kissinger was the lawyer at that time, he stated at the very end, that what they had to do was to find that there was an obstruction of the drain or natural watercourse and that the removal would promote better drainage.

President Mourdock: Right.

Janice Bollinger: So they said okay, and it will be to an extent, but it will not take care of the problem. I mean, it's a north side problem, they are at the bottom of a hill, so we understand that,

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but at least to put it back to where it was before. The second thing was that the obstruction was intentional, which she did do the landscaping, again, after checking with her lawyer that she could do it and he said yes, it turned out that wasn't the case.

President Mourdock: And just for the record, that was before the law came into effect that you quoted of a few minutes ago.

Janice Bollinger: Well, actually it was not.

Joe Harrison, Jr.: No.

Janice Bollinger: The law--

President Mourdock: The landscaping?

Ken Rasche: The landscaping was. But--

President Mourdock: That's what I am talking about.

Ken Rasche: --the matter with the attorney was two days afterward.

President Mourdock: Ah, okay.

Janice Bollinger: So he gave her an open, you know, do it, and she did.

President Mourdock: I hope that you guys don't buy lottery tickets. You are not very lucky, you know.

Janice Bollinger: We aren't, are we?

Ken Rasche: And the landscaping--

Janice Bollinger: In the lottery or nothing else. I think that's another headache. Again, she did it in response to the May '96 letter. So again, she is trying to appease him. She went up there cutting down wild flowers, because they were over 10 inches or 12 inches tall. If you have ever been out to the property, she would let you come out and walk it because behind her touches up to the Woodland Condominiums. There is about three lots where there is nothing but weeds, ivy and everything else, but hers looks like a park. So anyway, the second thing is that the obstruction was intentional and nowhere did Staub touch the culvert that was put in prior to 1977. So...and I don't understand all of the legal things but for a judge to rule that they can make her take out something that was done in...prior to 1977, and we know that because our dad did it and he died in 1977, but he can rule to make her take that out. It just...something just doesn't flow right with that for me. Then the last thing is, the order for the respondent to remove the obstruction, which was put in intentionally, which he did, which was the landscaping, so that is why Ken is saying that, you know, it's going to be another 12 or 15 hundred dollars if she is forced to do something to a culvert that has been there prior to 1977, and was never put in as for drainage, it was put in for the lawn mower.

Bill Jeffers: What if they just jerk out the 10 inch pipe? Now, that is not going to cost \$1,200.00 is it? If they jerk that 10 inch pipe out?

Janice Bollinger: What if it collapses when they do?

Ken Rasche: I believe that it was put in for the very reason that you are talking about. The pipe was decaying and on the ends, and it was put in to maintain an open waterway, but, again if the 15 inch culvert that was put in was oversized, it was just what was available and was dug down low so that it didn't create a big hump there.

Janice Bollinger: That's why there's dirt in the bottom of it and why the 10 inch sleeved in. It was, again, dad got it off the job site, he didn't calculate or anything else. It was a spare piece of pipe, and his boss gave it to him and he used it, and it worked for 20 some odd years.

Bill Jeffers: Do you intend to clean it out?

Ken Rasche: Yes.

Bill Jeffers: Clean the accumulated debris out of it?

Ken Rasche: Yes.

Janice Bollinger: The firewood was gone the next week. Honestly, she has had some trees coming down and a guy came over and cut the trees and was supposed to have taken it all, and you were out there, he didn't. I mean, that was gone, but that was again, just firewood.

Bill Jeffers: Right, that was probably the most minor of the--

Janice Bollinger: Right.

Ken Rasche: I looked through the culvert this evening, and it is fairly clear. I am not sure what was in there when you were looking in it. There is about a half moon I guess, but there is a fairly good size passage way.

Janice Bollinger: I think that she can commit to keeping it clean. You know, she is at the bottom of that long hill coming through all those trees, there will be more leaves and things coming down, and honestly, when you have one of these huge rains and you go up on the eastern culvert, the one that is up by the (inaudible) when it starts rolling it comes down in drenches.

Bill Jeffers: That culvert is not large enough either. It's...three times in the summer that I was out there looking at it, water went over top and both sides of that culvert, and what diameter is it? It is like a 20 inch, isn't it?

Ken Rasche: I'm not sure.

Bill Jeffers: It's huge. It handles twice the volume of this one down here, at least, and water went on both sides of it. So, I mean, I'm not willing to say that the intent of this final paragraph of our report would be fulfilled if the culvert isn't improved to some extent. But I would be willing to work with the Rasches on the first phrase of that sentence: "the restoration of the open waterway," and the middle phrase: "the general cleaning of

part of the waterway down stream of the culvert," and see what happens. But I would not want to say that the intent of this paragraph and finding, and finding of this report, nor the order of the Court would be entirely fulfilled without some work being done to the culvert and would be willing to work with the Rasches on the extent of that work over a period of time, and when I say some, that's not, that's not quantified nor a period of time, is not chronologically quantified either, if you follow me. We've all been living with this for two years, I mean, we can live with it for some longer period of time, as long as we see that the restoration of the waterway is being accomplished, and the clearing of the waterway downstream of the culvert is being accomplished. That middle phrase can be addressed over some period of time. Hopefully, as quickly as possible. Do you follow me on that?

President Mourdock: Okay.

Janice Bollinger: So you're saying, if she removes the landscaping and puts the ditch back in, and then keeps the culvert cleaned out, that's fair?

Bill Jeffers: And clears the waterway downstream of the culvert. That I might take some short period of time to examine the affects of that before I would tell this Board that replacement might not be the correct word or that maybe the understanding of the word replacement might be somewhat misconstrued in all of this.

President Mourdock: In other words, you just saved \$1,200.00.

Bill Jeffers: Pardon me?

President Mourdock: In other words, they just saved \$ 1,200.00 on a pipe. If they can reuse that pipe?

Bill Jeffers: If that pipe can be made usable, and prove not to be undersized or represent an obstruction.

President Mourdock: Okay.

Bill Jeffers: I mean, this is all new to me too. I'm not--

Janice Bollinger: Well...I appreciate that because I know that when we were here the first time, I think it was the--

President Mourdock: Yes.

Janice Bollinger: --first meeting of this whole thing.

Bill Jeffers: This is...I think this is probably the first petition--

President Mourdock: In the state.

Bill Jeffers: --and order in the state of Indiana.

Janice Bollinger: See--

Bill Jeffers: I don't think that there is any other county that has gone through this.

Janice Bollinger: Okay.

Bill Jeffers: It is not an easy thing, because I know that there are several people sitting here that are as conservative, at least as I am about people's private property, and we have all had to go through this with you. I am sure that we are all of the same mind to one extent or the other.

Janice Bollinger: Well, I guess that is what my concern comes from also is that I'm not aware...I don't know all of these things but that someone doing things on their property to move lawnmowers back and forth and then, can the governing body require her to bring them up to county specs for drainage when there is no easement on her property?

President Mourdock: That is the classic discussion that this Board had long before we heard of your specific situation in relationship to this law. Because it did two things, number one, it made the Drainage Board not just a group of three part-time County Commissioners, but effectively made us judges, which we never ran for office to become judges, and the second thing it did, is it raised real issues regarding the taking, if you will, of private property. Is it the Fifth Amendment of the U.S. Constitution that precludes the taking of property? I think so, and he is the lawyer. I think it is the Fifth. Anyway, that issue is one that is yet to be resolved. At some point, someone will take this to the Indiana Supreme Court probably. But until that happens, we have this law to work under. Obviously, you're striving to make some effort to bring successful completion to this, we appreciate it. We hear Bill's comments, and he is committed to doing it, and we will move forward with that. So we appreciate your patience.

Janice Bollinger: So for clarity, where do we stand?

Joe Harrison, Jr.: Well, Mr. Jeffers is going to come out and monitor the order, the removal of the obstruction, obstructions, and he is going to report back to this body as to the progress of the removal of the obstructions. If he feels that additional things need to be done to comply with what he thinks needs to be done pursuant to the order of this Board, he will come back, one way or another, and inform the Board that everything is fine or that everything is not fine, and go from there. This order is what we've got to follow now. I mean, it is not his earlier report, it's the order of this Court and the Heerdinks and the Roses can come in here to this Board, come in here, and say one thing or another regarding the order. But again, the final...the final decision maker, now, with respect to this order, though, is this body. So if they in some fashion want to, you know, approve of any recommendation of Mr. Jeffers, that's what they may do, but this Board may be the final decision maker now, concerning the order of this Court.

President Mourdock: Let me say that differently. If Bill comes back in here next month and tells us to his satisfaction, the requirements of Judge Palmer's order is met, as far as we're concerned, this issue is put to rest. If a neighbor runs in and says that there is a problem, there is a problem, we will say our technical expert, Mr. Jeffers, has reviewed this. It was done to the Court's order, to this Board's satisfaction, and this issue is

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behind us. That is what you want to know, I think. Is there something else that is going to backfire on you? As long as you please Mr. Jeffers, this thing is behind us.

Bill Jeffers: I think the only thing that may have gone, or been...is now being left unsaid is that we know there is a contractor that performed the work, and we know that there is a contractor willing to perform the remedy, and we know what he quoted you as a price, and we know that you are satisfied with him as a contractor or you wouldn't have gone back to him. So if you don't proceed, hastily, as weather permits to carry this out then I think that the Board maybe even at this time should order the Surveyor's Office to proceed. I mean, since you haven't carried out the order, as of April 7, 1998, and truly the weather probably was not cooperative, but if this drags on for any period of time and the Surveyor's Office, under their order, is forced to make a judgment call, or even given the assignment to make a judgment call, then I will go call Mr. Staub and say, start work. Because we can do that under the statute, and I guess I'm trying to say that needs to be done as hastily as possible. Otherwise, it gives the other parties involved in this the opportunity to stir it up some more.

Commissioner Tuley: Can you report...why don't we, and I will make this in the form of a motion, have you stay on top of this and report back to this Board on June 1st as to the progress. That gives them--

Bill Jeffers: Okay.

Commissioner Tuley: --a little more than 30 days to attempt to get Staub out there so that when the ground dries out and if it doesn't by virtue of your report, saying that the weather has not been cooperative, we've had a lot of rain, we'll look at it again in another 30 days.

Bill Jeffers: Okay.

Janice Bollinger: Floyd Staub is in Florida or he would have been there tonight, and Tony has been out to give the estimates and he did say that weather permitting he could be out there within two weeks.

President Mourdock: Great, then we will look forward to Bill's report.

Commissioner Jerrel: I'll second that motion.

Janice Bollinger: That is provided that we didn't take this, like you mentioned, to a higher authority or file another suit, in which case, it would all be on hold.

President Mourdock: Sure.

Commissioner Tuley: Right.

Janice Bollinger: Again, we don't want to do that. It is just that we have got to have closure--

Commissioner Jerrel: We understand.

Janice Bollinger: I have seen him in action, he knows what he's talking about. He's good at what he does, it's just that we thought we had this thing finished years ago, in '94.

President Mourdock: Okay.

Janice Bollinger: So please, it is not a reflection on you at all, it is just what we have lived through. If you think that we are being over cautious it's only because we have learned that we can't have three variables out there or two or one, we just want to know up front, how much more.

President Mourdock: Okay, it's just a matter of official business. There was a motion and a second and I will say so ordered. Again, as long as you are doing what Bill is telling you to do, this Board will look favorably on that, and as far as this issue flaring up at you again from this Board's perspective, I can't imagine that happening, as long as you're doing that.

Janice Bollinger: I appreciate that--

President Mourdock: Thank you.

Janice Bollinger: --thank you.

President Mourdock: Okay, one bit of other business. First of all, Miss, you have been very patient. Do you have some business before-

Commissioner Jerrel: She is a student.

Commissioner Tuley: She is a student with Dennis Beadles.

President Mourdock: Okay, alright. You are a very studious student to sit through all of this.

Commissioner Tuley: Most of them would have jumped...bailed out by now.

President Mourdock: Yeah, that's true. Almost every other student...every other student would have bailed out.

Janice Bollinger: Thank you and good-bye.

Commissioner Tuley: You're welcome.

President Mourdock: Thank you, Mrs. Rasche.

Blue Claims

Bill Jeffers: I have one claim for maintenance done, I think it's just the retention, the retainage fee that we are holding back that has been signed by the Surveyor. The paperwork is attached and we recommend approval.

President Mourdock: Okay, is there a motion to approve the blue claims?

Commissioner Jerrel: I move approval of the claim.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Emergency repair of Maidlow Ditch

Bill Jeffers: And one other item of business. I have some pictures if you would like to see them, but basically, what happened is during an intense rain fall and in an isolated area of northern Vanderburgh County, Maidlow Ditch came out of its banks, just upstream of the entire map area that was an experimental revetment of the ditch and is...blew a big hole in a farmer's field and it could possibly adversely affect the area that we treated. It is an emergency, and I would like for the Board to declare an emergency on Maidlow Ditch at two locations west of St. Joe Avenue across from Nuebling Road, so that we can get a contractor out there immediately to repair this before the next big rainfall completely undermines our work.

Commissioner Jerrel: I move approval of that emergency request.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: I think that you are talking in terms of \$500.00 here.

President Mourdock: Okay, so ordered.

Form 96 - Awards for maintenance contracts

President Mourdock: One last issue. We have the Form 96 for the award of the maintenance contracts in our folder. They're quite lengthy, and I would look for a motion to approve those with the office stamps.

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: We are in the process of getting all of the contracts in, but they haven't all come back to us. Most of them have, but some of them are being mailed back to us from Illinois and so forth, so those will be at your next meeting.

President Mourdock: Very good. Motion for adjournment?

Commissioner Jerrel: So moved.

Commissioner Tuley: Second.

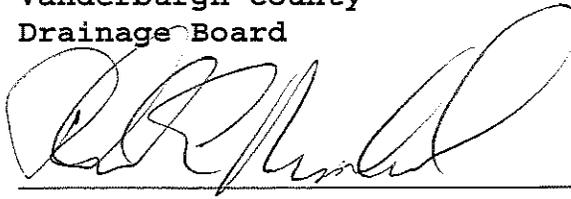
President Mourdock: So ordered.

Meeting adjourned at 8:55 p.m.

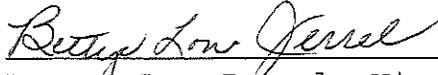
Those in attendance

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Bill Jeffers
Clifford Thomas
Judy Fleming
Don Bolin
Jim Morley, Jr.
Bill Mattingly
Ken Rasche
Janice Bollinger
Charlene Timmons
Others unidentified
Members of the media

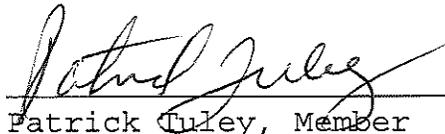
Vanderburgh County
Drainage Board



Richard E. Mourdock, President



Bettye Lou Jerrel, Vice President



Patrick Tuley, Member

VANDERBURGH COUNTY
DRAINAGE BOARD MEETING
APRIL 27, 1998

No.	Printed Name	Affiliation
1.	Gary Hoch	Lieberman's Assoc
2.	Philip Lieberman	Lieberman's Assoc
3.	Steven J Cray	Burdette Park
4.	Lianne Hudson	EVSC New Directions
5.	Jim Monley Jr.	Morley Assoc.
6.	Clifford Thomas	
7.	Judy Fleming	
8.	Bill Mattingly	Wexford Estates
9.	Kevin Licht	" "
10.	Raymond Zaherky	" "
11.	Chuck Mattingly	" "
12.	Vong Maphard	" "
13.	Leon Fendel	" "
14.	Sue Bolton	" "
15.	Colleen Hulse	EVSC Student
16.	Ken Rasche	Cathy Rasche
17.	John Hendricks	Wexford Estates

**VANDEBURGH COUNTY
COMMISSIONERS MEETING
APRIL 27, 1998**

No	Printed Name	Affiliation
1.	Jan Bollinger	Cathy Rasche
2.	Cathy Rasche	Cathy Rasche
3.	RODNEY K. YOUNG PE RW	AES ENGINEERING
4.		
5.		
6.		
7.		
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17.		

Vanderburgh County Drainage Board
AGENDA

27 April 1998

- I. Approve minutes of previous meeting(s)

- II. Subdivision Drainage Plans:
 - a. Harmony Hollow Estates Final
 - b. Wexford Estates Sub Preliminary
 - c. Winstead Place Sec. II Preliminary
 - d. Spring Park Subdivision Final
 - e. Riverwind Pointe Final

- III. Action on Catherine Rasche Order to Remove Obstruction

- IV. Other Business

FAX TRANSMISSION

BOWERS, HARRISON, KENT & MILLER, LLP

25 N. W. RIVERSIDE DRIVE, P.O. Box 1287

EVANSVILLE, IN 47706-1287

(812) 426-1231

FAX: (812) 464-3676

To: Charlene Timmons **Date:** March 9, 1998
Fax #: 435-5344 **Pages:** 3, including this cover sheet.
From: Joseph H. Harrison, Jr.
Subject: Drainage Board adv. Catherine Rasche

COMMENTS:

See attached.

WARNING CONFIDENTIALITY NOTICE

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4a. Article Number D 30-624-600	4b. Service Type <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Registered <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
7. Date of Delivery 2-28-98	
5. Addressee's Address (Only if requested and fee is paid)	
6. Signature (Addressee or Agent) X <i>Valerie A. Roster</i>	

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- Complete items 3, 4a, and 4b.
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2. Restricted Delivery

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4a. Article Number D147-220 705	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
7. Date of Delivery	
5. Received By: (Print Name)	
6. Signature (Addressee or Agent) X <i>Rena Gively</i>	
8. Addressee's Address (Only if requested and fee is paid)	

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 * Complete name 1 and/or 2 for additional services.
 * Print your name and address on the reverse of this form so that we can return the card to you.
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 * Write "Return Receipt Requested" on the mailpiece below the article number.
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3. Article Addressed to:
 William & Wilma Kest
 14 W. Mill Road
 ETNA, IN 47710

5. Received By: (Print Name)
 X *William Kest*

8. Addressee's Address (Only if requested and fee is paid)

7. Date of Delivery
 2-25-98

4b. Service Type
 Div. 200-767

4a. Article Number

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 2. Restricted Delivery
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SENDER:
 * Complete name 1 and/or 2 for additional services.
 * Print your name and address on the reverse of this form so that we can return the card to you.
 * Attach the form to the front of the mailpiece, or on the back if space does not permit.
 * Write "Return Receipt Requested" on the mailpiece below the article number.
 * The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:
 Thomas & Rose Lerdauk
 18 W. Mill Road
 ETNA, IN 47710

5. Received By: (Print Name)
 X *Thomas & Rose Lerdauk*

8. Addressee's Address (Only if requested and fee is paid)

7. Date of Delivery
 2-28-98

4b. Service Type
 Div. 200-766

4a. Article Number

1. Addressee's Address following services (for an extra fee);
 2. Restricted Delivery
 Consult postmaster for fee.

Registered
 Express Mail
 Return Receipt for Merchandise
 Insured
 COD

PS Form 3811, December 1984 102525-87-B-0178 Domestic Return Receipt

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SPRING PARK SUBDIVISION
REQUESTING
FINAL DRAINAGE PLAN APPROVAL

04/27/98

This site is very hilly and has experienced severe erosion prior to development. The development plans divide the parent tract thirty small lots served by streets set at grades as steep as ten percent.

The increased volume of runoff after development from streets, driveways, houses and patios will travel at higher velocities and reach the main receiving stream (a natural creek) undetained at the West boundary of the project.

The plan is to detain the increased volume of runoff in the natural creek channel behind two check dams constructed of rip rap gabions. The stored water will be released as a controlled flow rate through weirs in the check dams.

Due to the steep, highly erodible terrain and the density of development upstream of the detention facilities, the Vanderburgh County Surveyor's office has reviewed the plans with a great deal of scrutiny.

The following comments are presented to be entered into the record so that there is no misunderstanding as to the Surveyor's apprehensions about drainage problems that could plague this development unless the utmost care is taken to implement all details of the drainage plan and erosion control plan for this project.

In some cases, additional measures may have to be implemented when unanticipated conditions are encountered during and/or after development of Spring Park.

The county surveyor expects the developer and his engineer to assume responsibility for developing contingency plans and shop drawings as such unanticipated conditions are encountered, and to submit such plans and drawing to the county surveyor for filing with the approved final plans.

In addition, since we anticipate unavoidable plan changes, we will require an "as built" set of drainage plans (per ordinance requirement) to be submitted at completion of the project. The as built plans will be filed with the original plans and made available to the individual property owners and the "subdivision owners association" when needed for maintenance and repairs.

1. First, an oversight occurred during review that resulted in the omission of an easement for that part of a drainage pipe which lies outside street right-of-way in front of Lot 6. The pipe runs diagonally across the Northeast corner of the lot and needs an easement added to the plat. An emergency overflow channel also is needed along the top of the pipe just like the one on Lot 9 to prevent over-the-curb flow from running down the driveway into the garage or against the foundation of the house.

Since the site is not in a FEMA designate "Zone A" finished floor elevations set 2 feet above the 100 year flood are not required by law. Observation of the site over the past two years has revealed some flooding outside the East bank of the creek. Additional water will enter the creek undetained and then be held behind the check dams up to 3 feet higher than prior to development during extreme rainfall events.

Therefore we feel responsible to notify the Board and the developer that we are very apprehensive about basements along the creek; and we are generally apprehensive about basements on all lots numbered 1 through 14 for the following reasons:

2. We are apprehensive about a basement under the house on Lot 13 due to its proximity to Swale #1. The swale carries off-site drainage through the lot and the driveway might act as a dam causing water to back up into basement window wells. The engineer for the project has inserted a note on the drawing indicating a need for a depressed saddle in the driveway to allow high flow to cross the driveway without flooding the house foundation.

The engineer should be consulted for exact construction details and grade staking when the drive is poured, and extreme care should be taken to install the drive according to such details and grade stakes.

3. Our concern about a basement on Lot 14 is due to the extremely close proximity of the house foundation to Swale #1. It has been our experience that when open swales are this close to a house, the buyer either convinces the builder to pipe the ditch or alters the ditch himself after the house is built. In most cases the pipe is undersized for heavy storms, and the ditch flows back up into the crawl space vents or down into basement window wells.

4. Our concern about a basement on Lot 12 is due to potential over-the-curb flow from the street inlet during heavy storms running down the driveway into the garage or across the yard into basement window wells. Again, extreme care must be exercised to follow the details provided for yard grading.

5. Our apprehension about basements for the rest of the lots numbered 1 through 11 is due to:

- a. The basement walk-outs will face the creek. The consulting engineer set the elevation for the basement floors at two feet above the top of the creek bank at the lowest end of each yard.

While this may be sufficient, we remain apprehensive due to the unknown effect the check dams will have on the elevation of flood water during an extreme event after development increases runoff into the creek.

Therefore, we feel the developer should have his engineer determine a more exact expected high water elevation if and when a basement is planned for any lot numbered 1 through 11.

6. A very detailed erosion control plan based on the Indiana Handbook for Erosion Control has been made a part of this drainage plan due to the severely eroded condition of the site and the anticipated impact of development at this location.

All erosion control measures shown on the plan should be implemented along with the drainage facilities and should be maintained stable throughout development. Detailed drawings and narratives are available upon request.

When the individual lots are turned over to the homeowners, the individual property owners may wish to continue to maintain erosion control methods shown on the plan.

The homeowners association who will be responsible for the repair and maintenance of the drainage facilities definitely should have all pertinent detail drawings, narrative literature, etc. related to the erosion control plan.

7. The grading details shown in one (1) foot contours on the drainage plan are intended to assist the developer in preparing the site for construction of houses.

After the house foundations are set, post construction yard grading must take place to create sufficient dirt grades away from the foundations to prevent flooding of crawl spaces and basement. Notes and detail drawings are in the plans to assist the house builders in creating such yard grades.

Additional protective yard grading and landscaping may be necessary due to individual house designs, additions, swimming pools, patios, and other unanticipated conditions encountered in the field.

Most importantly, homeowners should not alter protective grades nor obstruct swales and other drainage features intended to convey storm water away from foundations especially emergency overflows from Street One down into the creek.

8. All maintenance and repair of all storm water facilities outside of county accepted street rights-of-way like ditches, pipes, rock chutes at the ends of pipes, rip rap ditch revetment, swales, protective yard grades, emergency overflows from the street and between the houses, the creek, the check dams in the creek, and the common area land on both sides of the creek will remain the responsibility of the individual lot owners and the "subdivision owners association."

While the county surveyor and other agents of county government remain available to provide copies of drainage plan details, erosion control methods, etc., it will be the lot owners and their association who bears the responsibility for the care and repair of the facilities.

The fact is, conditions change after county inspectors view and recommend acceptance or approval of finished streets and drainage facilities. Many changes are unauthorized and never brought to our attention until they cause severe problems. Individual lot owners are notified on the plat of their responsibility to prevent unauthorized alterations of the drainage facilities.

10. A significant "natural surface watercourse" exists on the South side of Lot 24. A note is on the plan explaining its importance and care. Extreme care should be taken to prevent obstruction and/or erosion of this area.

Another watercourse exists Lot 17 and Lots 21 & 22. The same care to protect it from erosion and obstruction is needed. However, the watercourse on Lot 24 is much more critical due to its proximity to the house foundation and the fact it dumps directly into the street.

These notes are entered into the record of this meeting to inform all concerned parties of certain apprehensions and concerns of the county surveyor as the reviewing and recommending agency for this plan.

A copy of these comments will be provided to the developer(s) of Spring Park and his/her/their consulting engineer by hand or by registered mail on April 27, 1998.

 4/27/98
Bill Jeffers
Chief Deputy Surveyor
Vanderburgh County Surveyor
812-435-5117

Also - DEVELOPER ~~#~~ SHOULD CONSULT HIS
ENGINEER AND THE COUNTY ENGINEER
ABOUT ADVISABILITY OF INSTALLING
AT LEAST 2 MORE STREET INLETS
NEAR INTERSECTION OF STREET 2
AND STREET 3 TO CAPTURE GUTTER
FLOW BEFORE IT HITS 10% down grade
11/17 4/27/98

CERTIFICATION OF PAYMENT
FOR MAINTENANCE TO A REGULATED DRAIN

By this Instrument, I X Eugene M. Huber
(Signature in Ink)

representing BIG CREEK DRAINAGE ASSOC, and presently
under contract with the Vanderburgh County Drainage Board to perform

certain maintenance on BARRS CREEK, 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: BARRS CREEK # 234-009

CONTRACTOR: B.C.D.A VENDOR # 0986

CONTRACT # _____ AND/OR ACCOUNT # _____

- ANNUAL MAINTENANCE
 ADDITIONAL MAINTENANCE
 EMERGENCY MAINTENANCE

COMPLETION DATE FEB 5, 1998
INSPECTION DATE FEB 16, 1998

- WORK IS APPROVED
 NOT APPROVED: COMMENTS: _____

Robert Huber
VANDERBURGH COUNTY SURVEYOR

DATE

4/27/98

**Vanderburgh County
Drainage Board Meeting
June 1, 1998**

Call to order

President Mourdock: Good evening. We'll call the June 1, 1998 meeting of the Vanderburgh County Drainage Board to order. I appreciate your patience tonight. As you saw, we were signing a whole bunch of paperwork from the previous meeting. We've got a very, very full agenda this evening, so we expect we will be here until 10:00 or so. We're going to try to move through it as quickly as possible, but for those of you who wish to speak tonight I hope you keep that in mind. When you do come to the microphone it's important that you state your name and address and if you're speaking to the same issue as the person who just left the microphone it is not necessary that you restate the same concerns or same issues. We can pick up on them after once, I think. With that, we'll go to the Surveyor's Office, Deputy Surveyor Bill Jeffers.

Approval of minutes

President Mourdock: We've got minutes in our packet from the prior meeting of...what was the date? April 27th. Is there a motion to approve those minutes?

Commissioner Jerrel: I move approval of the minutes of the previous meeting.

Commissioner Tuley: Second.

President Mourdock: So ordered. Now, Bill Jeffers.

Update - Rasche petition to remove obstruction

Bill Jeffers: First piece of old business is an update of the Rasche matter. I spoke with Bob Staub personally on the telephone first of the week and he assured me they had been directed to do the work on Mrs. Rasche's property and they were waiting for the ground to dry out at that time. During the dry...the week or so of dry weather previous to that they had been doing catch-up work on previous contracts and then yesterday an employee of Staub called our office and informed us that it was in the work orders for next week weather permitting.

President Mourdock: Okay, very good.

Wexford Estates Subdivision - Preliminary drainage plan

Bill Jeffers: The second item of old business is the Wexford Estates Subdivision which was tabled at last month's meeting. The request from the developer is the approval of the preliminary which you began viewing last week before it was tabled. I have been out to the site and walked across the greater part of it with Mr. Bill Mattingly, who is in the audience. James Morley, Jr., who is also in the audience, representing the developer was there at the beginning of our meeting in the field and we had discussions about the plan. I highlighted in blue all the swales that either intercept or catch drainage from within the area of the subdivision and convey it to the basin which is shaded in yellow. I believe I shaded in orange a large 30 inch diameter pipe that passes the natural creek through the northwest corner of the subdivision and at that point I am saying that there

is going to have to be an emergency overflow for storms greater than the 25 year storm for which that pipe is designed and that emergency overflow is going to have to be sufficient to pass up to a 100 year storm over the top of the pipe, over the top of the street and along its generally natural course through the subdivision for storms that exceed the 25 year storms to which that pipe is designed. Then I've given some squiggly red lines to indicate the general flow of the water within the subdivision to where it is either collected by street inlets or pipes and taken to the basin. Generally speaking, 95 percent of the water that falls within the area of the subdivision will be conveyed to the basin. A very small area around the eastern and southern fringe will run off, but it will run off of natural cover because those areas are going to be either lawn or what is called a landscape strip intended to preserve tree lines and exist out there, so there will be a site barrier between this development and the properties on the other side of the tree lines. The basin discharges through a 15 inch concrete pipe back into the natural creek near the southwest corner of the project where it says discharge. That will require an off-site easement granted by the property owner at that location which has not yet been recorded and I do not know the extent of negotiations between the developer and the property owner and truly it's not my concern. If that doesn't happen they'll have to go back to the drawing board.

President Mourdock: So you're saying the approval here is conditional upon getting that off-site?

Bill Jeffers: It's a preliminary plan and we are recommending approval of the preliminary. It does meet with the criteria of the drainage ordinance and generally with all the criteria we use to review other preliminary plans. There are notes on there indicating that what I am going to be pursuing towards a final plan. Most of them have to do with emergency overflows and treatment of certain areas that are going to be sensitive areas using methods outlined and detailed in the Indiana Handbook on Erosion Control.

President Mourdock: To be approved as a final plan, though, are you saying that you do need that off-site easement?

Bill Jeffers: To be approved, yes. For this plan to be approved as a final plan there must be an off-site easement at that location.

President Mourdock: Okay.

Bill Jeffers: And also some minor details relating to the Indiana Handbook on Erosion Control. Like I said, there are people here in the audience to speak to it.

President Mourdock: Yeah, last time when this came before us you'll recall there were a number of folks who hadn't seen any large scale plan. They met, in fact, outside the room during part of the meeting, so anyone wishing to--

Commissioner Jerrel: I was just going to say, there is about six or seven pages in our minutes.

President Mourdock: Right.

Commissioner Jerrel: Did you get out there and get a chance to--

Bill Jeffers: Yes, ma'am. I met Mr. Mattingly at the site and he took me on a tour of not only this area, but of areas that are of concern to the people who may speak and I will

say, yes, there is a substantial amount of water coming down the hill from the 29 acres upstream of this site, upstream of that 30 inch pipe out of Deerfield Subdivision and out of other private tracts of land along Old State Road and Mount Pleasant. That's why the need for an emergency overflow was expressed and what you'll hear tonight, I'm sure, from them is the affects of this large amount of water because this particular area has been deluged in '96 and '97 by unusually high rainfall events that were reported at the airport, one of them in excess of what if there was such a thing it would have been a 300 year storm. It exceeded the 100 year storm by quite a bit. That was measured at the airport. It could have been higher at this location. That's probably the source of most of the concern here tonight.

President Mourdock: Okay, anyone present wishing to speak to this particular plan?

Bill Mattingly: Bill Mattingly, 8015 Old State Road. That flood he was talking about it was...if the river would have been up rather than a pool there would have been ten foot of water through all that ground that he is talking about there. I appreciate you guys sending Bill out, I feel like you were working for us a little bit there. I drug him all over them hills. He was sweating. I haven't seen his marked up print.

Commissioner Jerrel: Do you want to turn it around?

Bill Mattingly: No, that's fine. I can see it right there. That was about like the same one, the little plan that you brought out, wasn't it?

Bill Jeffers: Yes, sir.

Bill Mattingly: Okay. You guys are going to have to bear with me a little bit. When I looked at this in relation to the 30 inch pipe he was talking about when me and Bill walked through there that was...right where that pipe is going to be that water...we saw where the water line was. It was about 30 or 35 foot wide by just about a foot deep tapering out to there, right? I can see where he is coming from that it's going to overflow that 30 inch pipe right off the bat with 30 foot of water a foot deep tapering on the ends, so it is going to go over the road if that's the way it was designed. We talked about a bigger pipe, but you would cause trouble down here lower, I guess, with a bigger pipe. That goes right across...if that goes across the road there it goes across Lot Number 4, Lot Number 5, I guess Lot Number 6.

Bill Jeffers: It would follow the general...it would follow the exact path of the pipe itself.

Bill Mattingly: Okay. Right through them people's yards, I guess, and house and everything else. A little problem with that is the maintenance of that 30 inch pipe. This draws 29 acres of woods, oak trees, leaves and everything, you know. I've got a 36 inch culvert down below here, I don't know if you can see that. This is my property.

President Mourdock: Right here.

Bill Mattingly: Right there. That's my 36 inch culvert. What's that?

President Mourdock: It's where your house is.

Bill Mattingly: Yeah, that's my house up on the hill. This is down in the bottom here and this is Mrs. Bolton's house. I've got to continually clean that out after every rain, you

know. The thing has already been out of the creek three times already this year, out of the banks of the creek. I've got some stuff to show you on that.

President Mourdock: So that being the case, then it has already been out before any of this is done?

Bill Mattingly: Before any of this is even built.

President Mourdock: Before this basin is built. The question is, you know, not so much where it is today or what it has been this year, but what's the affect of that going to be.

Bill Mattingly: Well, nothing has changed up here. If you stop this up, you know, I don't know where the maintenance is going to be out there. There is quite a few maintenance points. That's one maintenance point. Here is another maintenance point right here, this inlet right here which drains this. There is, of course, curbs...I don't know what they'll do with guttered curbs, but this is another maintenance place right here. This is a maintenance place right here and I don't know who is going to maintain all this maintenance.

President Mourdock: Okay, let's ask that question. Bill, do you know is that part of the homeowners...is there going to be a homeowners association that they are required to do that?

Bill Jeffers: When they bring me the final plan I'll be asking them whether they are going to submit \$2 per lineal foot for the county to repair culvert failures or whether they are going to establish a homeowners association for that purpose. However, what Mr. Mattingly is speaking to is what happened especially in '96 where a lot of loose debris was washed out of the woods in this very area and especially over in the Evergreen Acres' area and plugged culverts that were under county accepted roads and then the county maintenance crew had to come out and unplug those culverts after the damage was done. In other words, the damage is done during the storm. The crews can't be everywhere once. They can only come afterwards and pull the debris out of the culverts. Once the roads are accepted by the county the county culvert crew will do that maintenance in that large culvert or any culverts that go under county roadway within the right-of-way.

Bill Mattingly: I don't know if that's in the right-of-way or not.

Bill Jeffers: Well, that 30 inch is, the entrance to it. Okay,--

Bill Mattingly: This one isn't in the basin.

Bill Jeffers: --the maintenance in the basin and the maintenance in the outlet structure of the basin will be the responsibility of the property owner on whose land the basin or parts of the basin lie.

Bill Mattingly: I wouldn't build a house on that lot.

Bill Jeffers: Well, you would be surprised how many houses are actually built on basins such as these.

President Mourdock: The other situation might be in that case where the basin is somewhat communalized, then it would become the responsibility of the homeowners

association if, in fact, there is one.

Bill Jeffers: If there is one, but otherwise it would be each individual lot owner. Since 1996 when we discovered that there are a lot houses whose driveways are downstream of the upstream end of a culvert and then the water can't make it through the culvert, it hops over the curb, goes across the street and down someone's driveway and into their garage the Building Commissioner has required that garages be raised two feet above that level and we in our office, even though it is not in the ordinance per se, we in our office have begun insisting, like I did at the microphone about ten minutes ago, that there is a pass through the entire subdivision generally along the natural watercourse for emergency overflows that exceed the 25 year design storm pipe. So in other words, if that...operating as if that pipe were plugged because we know now that pipes do get plugged when you have these storms that are sometimes ten years apart and they wash all this litter out of the woods, so that's the reason for the emergency overflow that will be generally along the course of that pipe. It will operate when the pipe is plugged to pass the water through this corner of the subdivision.

Bill Mattingly: So you're saying the ground that we looked at right here at the beginning of the 30 inch pipe that the water was 30 or 35 foot wide by a foot deep is a 25 year rain?

Bill Jeffers: I will...I don't know. You know, I would have to consult the National Weather Service to find out what day that was.

Bill Mattingly: That was May 6th.

Bill Jeffers: I could find out, you know, how much rainfall fell at the airport is what I would have to find out.

President Mourdock: But again, that's the main point. If this doesn't...if there is never a blade of dirt turned over out here how does that affect...I mean, if...let me say it the other way. What you're saying, Mr. Mattingly, as I understand it is if they do nothing out here you've already seen the water clear up to the banks in this 30 foot area, right, and you've seen, as Bill was saying, the drainage way plugged?

Bill Mattingly: Right.

President Mourdock: The question then becomes is if this happens how is any of that influenced?

Bill Mattingly: Well, it's got to be more.

President Mourdock: That's the question. Why does it have to be more? Bill.

Bill Jeffers: The only way we could lessen the effect of what is going to happen in the natural watercourse coming off the 29 acres above this subdivision is to go into private property like Deerfield and ask them to voluntarily build basins. Otherwise you're going to see the same amount come down through there in the same kind of rainfall event. The only thing we have control over at this point is to say that all the land within the boundaries of what Mr. Lamb wishes to develop must reduce its flow rate from...to a point...well, must match what exists out there during a ten year storm and after development during a 25 year storm reduce that flow rate down to what it would have been undeveloped during a ten year storm, so we're asking for an actual deduction in

the flow rate by routing it through that basin.

President Mourdock: And you're saying, Bill, with your recommendation of this as a preliminary plan, realizing there is other components that have to come together yet such as this easement, but you're saying with this plan as it is now it effectively goes to that ten year standard?

Bill Jeffers: Right, I cannot recommend a plan unless the calculations that Mr. Morley submitted show positively that his flow rate has been reduced to an undeveloped ten year storm event flow rate from within the boundaries of that subdivision. His calculations do show that and his design reflects it.

Bill Mattingly: Me and Bill talked about this. You know, the airport...there is a hillside that runs down Darmstadt Road and one that runs down Old State Road and anybody out there that has a rain gauge...I have a rain gauge. It's an approved Farm Bureau rain gauge. You know, I don't know if the airport would certify it or what, but everybody has got them out there and when the clouds come from the west and they get them two hillsides you continually get more rain than what you get at the airport, what they report at the airport. That's why I feel it's unfair by their calculations by the airport. I know it's close, but as soon as it hits that flat it quits raining, you know. If you would listen to the experience of the people that lived in the area, I mean, this has been my family's house since 1917. I mean, this ground used to never flood and now it is flooding and I've got a few reasons for that up there too, in just a second.

Bill Jeffers: Well, we did talk about several things and I do agree that everything we operate on is theoretical. There is actually a theoretical maximum rainfall for this area of 36 inches in 24 hours. We've never had it, thank God, but the potential is there if the thunderstorm cells are back to back and the jet stream is just right, El Niño is operating just right, etc., of 36 inches in 24 hours. I hope I never see. I live on top of a hill and I'm sure I'll see it right up to my doorstep. But, yes, everything is theoretical and, yes, there will be a slower discharge from this subdivision over a longer period of time than there would be if it was bare. There will be more water discharging at a slower rate over a longer period of time. We all know that, but these are the theoretical equations and figures and rainfall data, etc., that we are given by the National Weather Service and by Purdue University and by the State of Indiana to operate on and it's the best that we, as humans, can do. Well, it's not the best that we can do, but it is what we have been able to do using the data that we receive from the experts.

President Mourdock: You mentioned Deerfield a minute ago, Bill, further north here, I guess. Was that pre-code?

Bill Jeffers: Deerfield routed most of their water from the streets and rooftops down to an existing two lakes along Mount Pleasant Road, but their lots are so large and their houses are so large that there is still a substantial quantity that comes off the back of the houses, backyard patios, garages.

President Mourdock: Was that done pre-code?

Bill Jeffers: It was pre 1986 ordinance. That particular section was done before there was any requirement for detention at all. All their detention is out front and there is some area of their subdivision that is undetained. I will say there is one large yard there that is still putting a lot of water through this area because it was just graded and seeded, it looked like to me maybe last fall, and it's not very dense yet and what these folks

remember is Mr. Carson's estate was very dense grass pasture and even when he didn't mow it, he kept a golf course out there, but even when he didn't mow it the tall grass was very mature, dense fescue and it couldn't be considered a poor pasture, whereas some of the lawns as they were developing Deerfield when they regraded some of the lawns were reseeded and they're still getting more water now than they did when Mr. Carson--

Bill Mattingly: That's because they keep washing out and they keep hauling dirt in trying to get grass in there.

Bill Jeffers: Well, once they do get tight grass the amount of water that comes off of them will be less. However, yes, that was pre-ordinance.

Commissioner Jerrel: Bill, I want to ask the question one more time. The maintenance of those...I mean the action for those maintenance areas would be in the final plan. Either it will be an association with a subscribed responsibility or it will be an assessment of some sort?

Bill Jeffers: The maintenance will always be the individual lot owners until there is a pipe failure or disruption of service that requires repair work and then if there is a homeowners association they're responsible for it. If there is a \$2 per foot assessment paid to the county, the County Highway Department will make the repairs.

Bill Mattingly: Well, not to these you won't.

President Mourdock: No, not to those. That's the one that's on the homeowners--

Bill Mattingly: (Inaudible) a culvert in the front here and that's it.

Bill Jeffers: That would include the discharge pipe from the basin. If he makes his \$2 per lineal foot payment to the county, the county would also repair the basin outlet.

Bill Mattingly: Are you going to drive a backhoe through this guy's yard or my yard or both yards to get back there to clean that out?

Bill Jeffers: They'll act...there is a ten foot maintenance easement on top and around the basin and there will have to be an access easement to that from the county...the roadway that he is building.

President Mourdock: But more than likely, and I am speculating here, more than likely I am going to guess that would end up in a homeowners association or the individual?

Bill Jeffers: If he has enough room to grant access easements to us it generally goes county maintenance. If he wants to limit the amount of easements that he grants it generally goes homeowners association.

President Mourdock: Okay, is there anyone else here wishing to...let me just see. Is there anyone else here wishing to speak to this particular plan? Yes.

Dan Pietrowski: I'm Dan Pietrowski. I live at 8120 Old State Road right across the street from the proposed development. One thing that I just wanted to make sure that when we talk about the whole general area up there around Old State Road I have lived there 18 years and with all the development going on around there every year regardless to the last two years, before the last two years, there are places there that flood now that 15

years ago didn't and every year it gets worse, and worse, and worse. So I just want you to keep that in mind. Not just that one little 11 acre tract, 28 homes and Mr. Mattingly's property, but the whole area around there. Especially the folks that live down at the bottom of that hill. It's getting worse and worse for them, too. That's all I'm going to say.

President Mourdock: Okay, thank you, Mr. Pietrowski. Someone else raised their hand.

Charles Mattingly: 114 Eissler Road.

President Mourdock: What is your name, sir?

Charles Mattingly: Charles Mattingly. It's been I know up until the last couple of years that water has never got up in the yard right there, but that place two years ago it got up in there and got up under the house and it has been pretty bad around there. It almost got out a couple of times this year. So, I mean...and that was after they redid the bridge on down on Strawberry. That was one of the things they said was stopping water flow.

President Mourdock: Well, when...we just redid the bridge on Strawberry a year...?

Commissioner Jerrel: Two years.

Bill Jeffers: Last summer.

President Mourdock: Yeah, last summer, so the event you're talking about was before the bridge.

Charles Mattingly: Before that, but it has got almost up into the yard this year already. So, I mean, you can't use the bridge on Strawberry Lane as an excuse for the reason the water got up there. You know, you keep stacking houses up out there you've got to do something. You either build a bigger retention pond and take some of this guy's property that he is going to make money off of and build a pond out of it or do something, but you've got to stop the water somewhere. It just comes to common sense, you know, if you're going to build 28 houses up there and you wash two of them down there away you've still got the taxes off of 26, but people have lived there for years. It's just something to think about. You wouldn't want it done in your neighborhood and we don't want it done on ours.

President Mourdock: Your comment about the detention basin, though, I appreciate what you're saying with that. You're saying the detention basin works to that degree, it's just a question of what the size of the detention basin should be in your mind?

Charles Mattingly: Well, if they are going to build them, I mean, they need to put a large enough one in there that if they're not going to have to...I know it's going to overflow sometimes. Eventually something does, but we don't want to put one in there that's going to overflow every year or every other year because when it does you're going to start tearing up the ditch and you're going to start washing down creek and it's just going to get worse. That part of the country is going to continue to build up. We just need to, you know, look into the future of it not just right now for Mr. Lamb, but for everybody that lives out there.

President Mourdock: Okay, good comment.

Charles Mattingly: Thank you.

President Mourdock: Anyone else? Mr. Morley.

Jim Morley, Jr: Jim Morley, Jr., 600 Southeast Sixth Street. I would like to mention that the area down at the corner of Eissler Road and Old State Road that receives common flooding, I believe, is all...the large part of that is in the 100 year floodplain. Also, all the designs, the detention basin and all the pipe designs were designed in accordance with the county standards and all have excess capacity in them for carrying water or storing the water, what have you, in the...I mean, the way the ordinance is set up is to reduce the amount of water that is coming off of the site. Now, if they have a 25 year flood now...or 25 year rain now they get 25 years undeveloped coming downstream from there. After this they'll get ten year undeveloped coming down the stream from there. For the majority of their rainfalls they should see a reduced amount of flow coming down through that creek. I know the area out there and the area that they spoke of earlier where there was 30 feet of water a foot deep, I don't doubt that. I believe a large part of that reason is because at one time they built a little bridge to go back to that property and that little bridge has done nothing but collect debris underneath it to a point where it blocks...it acts more as a dam as it does then a bridge. No one every maintained it because for the past...I know at least the past nine or ten years nothing has been done on that property except it has been used as pastures and it has been accessed from Deerfield and not up that bridge. So I don't doubt that the water washed out because I'm sure it has hit that bridge/dam and it flowed out around that bridge to find its way out. The way the overflow is going to be set up, that road grade is less than the top of the bank upstream from there, so if the pipe would for some reason become clogged the water will come up and it will break over the top of the road before it ever leaves the top of the bank upstream from there so we won't cause any kind of flooding on people upstream. It will be coming over the roadway before it will leave the top of the bank.

President Mourdock: Excuse me, once it gets in the roadway it's going west, is that what you're saying? If it comes up over here and floods over, then it's going this way?

Jim Morley, Jr.: No, it would come this way and follow this orange path down, but what I am saying is this roadway elevation here is less than the top of the bank here so as water seeks its own level it will break over the road and flow down this emergency overflow swale which we have a maximum control elevation called out on and that will allow it to come over and flow through here passing the 100 year storm, at Bill's request, before it ever comes out of the bank over here on this property. That was our intent to protect the property owners so that we didn't cause any kind of dam situation like is there now.

President Mourdock: How much freeboard do you have on the detention basin?

Jim Morley, Jr.: I believe we...I know we have at least six inches and I believe we have more than that. I don't remember off the top of my head. I have several projects and I get them mixed up, but I know that we have at least half a foot which is county standard, I know, and then I believe we have more above that.

Bill Mattingly: This is the spot we're talking about here.

Jim Morley, Jr.: It's five feet tall here, so we have a foot...that being the case we have a foot of freeboard. It should be six inches from pool from the emergency overflow and then six inches from the emergency overflow to the top of the bank.

Bill Mattingly: Then where does it go out of the emergency overflow out here? In these people's yard?

Jim Morley, Jr.: No, it comes out up in here, the existing swale...channel. It will come through the easement that Mr. Lamb has to acquire and then once it comes through the easement it will be back in the existing swale channel. Mr. Mattingly also referred to his pipe...his water coming over the pipe.

Bill Mattingly: It doesn't go over the pipe.

Jim Morley, Jr.: I thought you said it came up over your driveway?

Bill Mattingly: It does every once and a while. It floods from here to them.

Jim Morley, Jr.: Okay, but at that same time when water is coming over this pipe from what I understand, correct me if I am wrong, this whole area is flooded, correct? It's not necessarily a fact that there is more water than a 36 inch pipe can handle, but, in fact, there is the possibility that the backwater is backing that water up and isn't allowing that water to come through.

Bill Mattingly: That is a lot of it. It's backing up this way.

Jim Morley, Jr.: Correct, but this swale itself rises at, if I remember right, at approximately a two percent grade which for swales around this county that is pretty steep. You know, a lot of swales around here have less than a one percent, so as it comes up, I mean, you gain elevation at a decent rate. I'm not saying that they don't see flooding down here, I'm not saying it doesn't come over his bridge, but what I am saying is that county standards are set up to protect him to keep us from discharging more on him than what he is getting now. I honestly believe that this is going to discharge...or that the new discharge will be less than what he has now and for all his common rainfalls I believe it is going to help his problem.

President Mourdock: Okay, thank you. Anyone else to comment on this one? Direction of the Board?

Bill Mattingly: I wasn't completely...can I still go on just a little bit?

President Mourdock: Just a little bit. We do have a lot of folks here.

Bill Mattingly: That 30 inch pipe could suck a grown man down it, let alone a five year old kid playing in that water down there when it goes over the top of that road he is talking about. This is Old State Road right here. That's Old State Road and Eissler Road right there. See all that water right there? The same thing there. That's the front of my property, Eissler and Old State Road. This is Mr. Seib's house right here and his garage.

President Mourdock: Eissler is right down...wait a minute, I'm turned around. Where is Eissler on this map?

Bill Jeffers: It's not on your plan.

President Mourdock: Right, it's just--

Bill Jeffers: About 5,000 feet or so south of the project.

President Mourdock: A thousand, okay.

Bill Mattingly: This is Old State Road. This is Kevin Licht's house. This is the back end of Pine Creek Subdivision right there. I've got more pictures here of May 6th this year. I didn't get out in time because it was dark and my flash didn't work at 3:00 in the morning, but you can see the water. This is my creek and my yard. You can see how high the water was by the brush. The same way there, you can see how high it was. It was out of the banks. Right there, out of the banks. This is down by Kevin's house, water standing at his house. There is some more water at Kevin's house. You can see how high the water was at his house. This creek is right here that he is discharging all this water into. The same there, that's the creek on Old State Road. My ditch out in front of the house, you can see how far the water was out of it. The same way there. That's coming in my driveway there. Look how high the water was.

President Mourdock: Mr. Morley, you said the intersection of Eissler and Old State is in the 100 year floodplain, is that right?

Jim Morley, Jr.: That's correct.

President Mourdock: Do you know what the elevation is right at that point?

Jim Morley, Jr: This site is substantially higher.

Bill Mattingly: This is my driveway coming off the runoff which he said he is going to take care of. Right there, just coming right out of it.

Commissioner Jerrel: Is this...has the water...this was the '96 storm, has there been any in that stream since then?

Bill Jeffers: The top of the creek bank that is in front of--

Bill Mattingly: It hasn't been that strong since, but other than this coming out it has been in Kevin's yard right there and been in the other Mrs. Mattingly's yard.

Bill Jeffers: The creek bank in front of Mrs. Mattingly's yard is 400 feet above sea level.

(Inaudible comments made from audience.)

Bill Mattingly: That was two different storms.

Unidentified: That was the second storm we had and it came up that high.

Bill Mattingly: You're saying the county is going to take care of these and it was a month after the second storm finally before they got out to clean out the ditch that's there.

Bill Jeffers: The elevation of the intersection of Eissler and Old State is 405. The top of the bank of the creek in front of Mrs. Eissler's house in front of the bridge on Eissler is 400 feet above sea level.

Bill Mattingly: And that's how high the water was May 6th.

Bill Jeffers: The pictures that Mr. Mattingly is showing you which are at least 1,000 feet north of the intersection, maybe 1,200 feet north of the intersection, are 410 feet above sea level or only five feet higher in elevation than the intersection...excuse me, ten feet higher in elevation than the intersection of Eissler and Old State. There is the intersection of Eissler and Old State, 405, and Mr. Mattingly's driveway is 410. Only five feet higher than the intersection of Eissler and Old State which is probably 1,200 feet. So it's a very flat flood prone area. Very flat.

Bill Mattingly: I've got just a little bit more here. This is a...I talked with 87 people and 86 of them signed this, 176 voters, property owners. These particular people are all along this creek starting with the Copperfield area which there is a new subdivision you're putting in there, 350 houses, that was two years ago it was four foot under water. From along the creek at Copperfield to the Villas and Old State Subdivision I followed just the creek, the houses along the creek, all these people right here and into the Jagoe homes which is that same creek. That's on the backside of Old State Subdivision and all those creeks. If you look what is being built out there you've got Knollview out Old State Road, you've got Brookview Heights, Brookview, Mount Ashley, the new Clear Creek, Copperfield, Copperfield 2, Deerfield 1, Deerfield 2, that all goes down to the creek underneath Mount Pleasant which goes under water quite a bit and then you've got Villas at Deerfield, Old State Subdivision, Jagoe Sub, Shady Hills, Petersburg Place, that's all on the creek that this little creek is feeding into and then they all come together there and go to Hamilton's Golf Course which is dammed up. In this, you've got everything all east of 41. All where the new McDonalds is, Kenworth, Shoe Carnival, all that stuff comes underneath. Part of the airport rides down through there and everything is backing up in this creek. That's why the water can't get away. I was just mentioning all that and then all those people...out of 87 people 86 of them signed and the only reason the one didn't sign is because he was a friend of the Morleys.

Commissioner Jerrel: What are we going to do with...I mean, this is a philosophical question. What are we going to do with empty property that people own, you know, what are we going to do with it when they want to build something on it? For instance, a lot of the people who have built homes on Old State really probably shouldn't have built the homes there.

Bill Mattingly: Less houses would be one thing.

Commissioner Jerrel: But I'm saying what do we do with that and it's rhetorical and I know it's not something we can answer here, but that's really...you said Hamilton's was dammed up.

Bill Mattingly: Uh-huh.

Commissioner Jerrel: What would happen if Hamilton's wasn't dammed up? What if that railroad car wasn't settled in there?

Bill Jeffers: I think I can answer what are we going to do with it because I had a philosophical discussion with Mr. Mattingly in the field and I think that the...much of the land that we're building on now is floodplain. I'd say probably--

President Mourdock: Are you talking this specific--

Bill Jeffers: Not this specific land.

President Mourdock: I just wanted to clarify.

Bill Jeffers: This specific land is not in the floodplain except down where the detention basin is. That's not even in the floodplain?

Jim Morley, Jr.: None of this site is in the floodplain.

Bill Jeffers: A lot of the land we're building on in Vanderburgh County is in the floodplain and in Louisville they have an ordinance now for every shovel full of dirt that you place in the floodplain you have to scoop a shovel full out in that same floodplain to compensate. That's a strict as I've ever heard. In the state of Indiana there are no regulations about building in the floodplain to that extent other than if you build in the floodplain you should build your finished floor elevation two feet above the 100 year flood which means your bottom of your first row of block is a foot and four inches above the floodplain and all the foot and four inches is dirt fill. Until one project displaces enough water to raise the level of the 100 year flood for the entire rest of the watershed area which might be 1,000 or more acres, until it raises it greater than fifteen hundredths of a foot which is less than two inches there is nothing that our office can do and nothing that I know of that any Board whether it be an elected Board or an appointed Board can do that won't be overturned over in that building right over there by a Circuit, Superior or whatever court judge and hasn't already been overturned by them in one county or another because the State of Indiana has statutes and other regulations and laws that says that a man who owns a piece of property has the right to the highest and best use of that piece of property. In this case he asking for R-1, single family zoning and the ability to build 28 homes, and if that judge over there rules against all of us, if we all stand together on this, and send our attorney over there and they send their attorney with them and that judge rules that Mr. Lamb had the right to the highest and best use and that was R-1, 28 lots, we've wasted several months of our time and several thousand dollars of tax money. I would like to be able to say no more building in this floodplain, no more building in that floodplain, but you can build over here in this floodplain, but in the state of Indiana the state constitution prohibits discrimination of that sort. I cannot treat one individual developer different than a different individual developer or I can be sued, my department can be sued and this Board can be sued. Any judge over there will rule in favor of that developer. This has happened in other counties and it will happen in this county. So we could have...we could go on with this philosophical deal here, but it is...it's not philosophical, it's reality. This man is entitled to the highest and best use of his ground. He is entitled to access to a county accepted road, being Old State. When he accesses it and brings a road into this area, then each one of those 28 lots, once that road is accepted, cannot be denied access to that county road and, again, any one of the judges over there would rule in favor of the access, the person seeking access. So we're stuck in this position and we went through a whole year of trying to design an ordinance that would please the residents of Vanderburgh County, and the homebuilders, and the developers, and the engineers, and the Board, and everyone else and as far as we got is where we are today and where we are today is actually exceeding the written language of our ordinance because there is nowhere in our ordinance that they're required to provide emergency overflow for a 100 year storm across their streets, but since 1990...the ordinance was passed in '94 and since 1996 we saw the need for that and so did nine out of ten of the developers and they are voluntarily going along with that. That's--

Commissioner Jerrel: Bill, I don't want to stop you from your discourse, but let me just say this to you, I know this is preliminary and typically you pass preliminary plans. If you're not durn sure of what you're telling us when this comes up for final I do agree

this...and I've walked that area. It's full. It's going to create problems unless you're satisfied with this plan, so when the time comes for the final approval, if I vote to approve the preliminary I'm not guaranteeing that I am going to vote to do the final.

Bill Jeffers: I understand what you're saying and I live out there and I have lived out there since 1981, which is not as long as many of the people in the audience have lived there, and I have seen all these creeks out of their banks. I've seen them out of their banks. The creek that Mr. Mattingly is talking about, the main creek that runs down through there is called Little Pigeon Creek or Little Creek depending on who you talk to. It was studied by the Corps of Engineers. The Corps of Engineers ran a theoretical program through a computer and said how high the water would get during a 100 year storm and when we had two of those in 1996 we set benchmarks at the highest extent of the water that existed across the top of Mount Pleasant Road and as I have reported to you a couple of years ago within a couple of inches it matched what the Corps of Engineers said it would do and that showed me that their computer programs are pretty close to being accurate. The width of the floodway that showed on that study, and that study was done in 1981, it matched the width of the water...the width of the water that traveled down through there in the floodway matched within a few feet and it was like 695 feet wide, so I have faith in that study. I personally turned in Hamilton's Golf Course and reeked the wrath of the entire Hamilton family for doing it. I personally took the inspector from DNR in my personal vehicle, my pickup truck, down the railroad track and showed him the dams and was ejected from the property because it's the leaseholders right to eject me even though I represent the county and was told if I did not have his permission to come on there again he would call the police and have me arrested. The DNR inspector has pictures of the dam and the three box cars or flat cars that cross that creek and they ruled and sent a ruling down here that all three of them precede 1972 and they have an affidavit from the contractor that supposedly constructed them, that they all precede 1972 and therefore are grandfathered even though the concrete in the dam has the date 1993 carved in it and there is a brand new footer underneath one of the bridges. I don't want anybody in this room to think I'm not familiar with the property because I have lived out there since 1981 and I've hunted that creek and walked that creek in the bottom when it was so dry you could walk it from Petersburg Road up under Mount Pleasant to 41. I've trapped beavers in that creek and I have been familiar with it since 1981 and I am not disputing one word that anyone in this audience has gotten up here and said. That's where I'm going to let it lay.

President Mourdock: Okay, thank you.

Bill Jeffers: I still recommend the plan.

President Mourdock: Oh, okay.

Bill Mattingly: Do you need these?

President Mourdock: No, not the photos. The map, I think, needs to go to Bill. Okay, we've heard the technical information, we've heard a number of concerns. What is the wish of the Board?

Commissioner Jerrel: I'm going to move approval of the preliminary plan, but I'm not through.

President Mourdock: You're keeping your options open, obviously, for the final vote?

Commissioner Jerrel: I certainly am.

President Mourdock: Commissioner Tuley?

Commissioner Tuley: I'll have to second just because of the recommendation and it meets the ordinance, I don't have any choice. That's the way I see it.

President Mourdock: There being a motion and a second, I will say so ordered and I will echo what Bettye Lou was saying a moment ago. There seems to be several outstanding things on this, not the least of which is getting the off-site easements.

Bill Mattingly: Thank you for your patience.

President Mourdock: Thank you.

Winstead Place, Section II - Final drainage plan

President Mourdock: Okay, Bill, next item on your agenda is final drainage plan for Winstead Place.

Bill Mattingly: We're going to get out of your hair.

Joe Harrison, Jr.: Have a good evening.

President Mourdock: Thank you all, or you can stay until 10:00 if you like.

Bill Jeffers: Winstead Place, Section II has been before you last month and you'll remember that there were two people in the audience who expressed some concern about the westernmost boundary of Winstead, Section I that flowed through their property and we showed them the detention basin that had been approved for that area and I gave them my office phone number and asked them to call me if they wanted me to come out and look at anything in particular and I did not receive any phone calls from those two individuals. The plan remains basically the same with some addition of details on this plan and the erosion control plan with regard to the Indiana Handbook on Erosion Control and our office recommends approval of the final plan for Winstead Place, Section II.

President Mourdock: Okay, any comments from the audience on this particular one?

Commissioner Tuley: Move to approve.

Commissioner Jerrel: Second.

President Mourdock: A motion and a second, so ordered. Do you want us to sign on the big rubber stamp here for approval?

Bill Jeffers: They like that because sometimes I forget to write down what day it was approved and that's supposed to be in the APC records.

Ashwood Subdivision - Final drainage plan

President Mourdock: Okay, next one Ashwood Subdivision, is that correct?

Bill Jeffers: Right. Ashwood Subdivision is a subdivision immediately east of the Romain

Subdivision, north of Lynch Road extension and the only thing to the east of Ashwood is the floodway itself for Pigeon Creek. There won't be any development to the east. There are two lakes in this subdivision, basically for beautification. They do serve some detention purposes, but we would have allowed this subdivision without detention because it flows immediately into Pigeon Creek. The only thing you see on there that would be any different than what will appear on the final plat is there are two easements that mistakenly were labeled ten foot drainage easements and I'm asking for 12 foot drainage easements on the final plat. Those go into the southernmost lake on your left-hand side of the page. Everything else...this is a piece I cut out of a large roll of plans over here with a complete set of street plans. I believe it received final...or some kind of approval years ago, but some letter of credit elapsed or something like that.

Commissioner Tuley: That's what it was.

Bill Jeffers: It's a perfectly good plan and our office recommends approval of the final plan for Ashwood Subdivision.

Commissioner Jerrel: I'll move approval.

President Mourdock: Anyone wishing to speak to this plan? Okay, motion for approval.

Commissioner Tuley: Second.

President Mourdock: So ordered. Do you need a signature on this one?

Bill Jeffers: I'll just put it on there right now.

President Mourdock: Alright.

McJohnston Heights - Final drainage plan

Bill Jeffers: The next one is McJohnston Heights, final plan. This is located at the intersection of Seib Road and Kansas Road or just north thereof and immediately west of State Road 57 up near what used to be called Sunbeam Plastics. It's also immediately south of Eagle Crossing, Section 2, that enters onto Seib Road. Eagle Crossing, Section 2, would be, yes, in the northerly direction that Mr. Mourdock is pointing. These are the names of the lot owners.

President Mourdock: I'm curious, Bill, how does the relocated Seib Road come in here? We just had that in our prior meeting.

Bill Jeffers: Okay, the relocated Seib Road is outside the boundaries of the project shown on that plat.

President Mourdock: So it's still out here somewhere.

Bill Jeffers: Well, it's down where your left hand is.

Commissioner Tuley: Yeah, it's down this way.

Bill Jeffers: It continues down to...there is still another large tract of undeveloped--

President Mourdock: Okay, I got it.

Bill Jeffers: --or agricultural zoned farmland down there.

President Mourdock: Okay.

Bill Jeffers: You're about 1,200 feet north of Kansas at this point.

President Mourdock: Okay, thank you, Billy.

Bill Jeffers: Okay, I've shaded the lake that the Indiana Department of Natural Resources has approved the construction plans for that lake including the portions that are inside the floodway that I have dashed in red. The floodplain is dashed in orange, so all those lots between the orange dashed line and the creek itself are in the floodplain. He has building elevations for all those. The green shaded stripes are your interior drainage swales that carry the water between the lots from the streets and into the lake that is shaded in yellow. I think I shaded the emergency spillway in green to show you that it empties out into Fuerlich Creek up near the top left-hand corner of the plan, so you have the large open spillway that will spill all that water directly into the creek. It's 171 lots if that is what is being counted there. Number 171 is right next to Lot 1, I believe, there at the northernmost entrance. The reason I shaded several of those lots in blue it goes along with the note in the margin that all those will drain towards the interior streets therefore the builders, and they're small lots, will have to use the drawings provided in the drainage ordinance for similar plans to get that water to drain between the houses and be very careful not to set his air conditioning pads in such a way that it would inhibit that flow because all that has to drain to the interior of the subdivision and through the swales and the street drainage into that lake. This plan has been worked over many times to attempt to address every concern that has been brought. Like I said, DNR approved the lake plans and we recommend approval of the final drainage plan for McJohnston Heights.

President Mourdock: Okay, comments from anyone from the audience? Board?

Commissioner Tuley: It's recommended approval, I'll move approval.

Commissioner Jerrel: Second.

President Mourdock: So ordered on final.

Waterford Plaza Subdivision - Preliminary drainage plan

Bill Jeffers: Okay, the preliminary drainage plans are listed in this order because that's how they appear on the Area Plan Commission docket for Wednesday. The first one, Waterford Plaza Subdivision, I apologize to the developer and anyone who has an interest in this subdivision, but it was submitted to me on Tuesday and it had some items in it that I would like to spend more time addressing that concern its drainage through Burkhardt Road into the pipe that is being placed on Crawford Brandeis Ditch and I would like to consult with the County Engineer and the special deputy for that project in regard to that and there was some other items that I would like to look at more closely concerning Oak Grove Road and Stockfleth Ditch.

Commissioner Jerrel: So that's Waterford you're withdrawing?

Bill Jeffers: Right, I'm not ready to make a recommendation.

President Mourdock: Are you two gentlemen here for that one? I hope you didn't wait all the way through this meeting to hear that.

Bill Jeffers: I notified the developer and his engineer of that this morning.

President Mourdock: Okay. I'm just glad there is no one that sat all the way through the meeting to hear that though, Bill, that you might not have heard.

Heartland Ridge, Section 3 - Preliminary drainage plan

President Mourdock: Okay, this is Heartland Ridge, Section 3?

Bill Jeffers: Well, I am kind of obligated to put everything on the agenda in case at the last minute the developer decides he wants to come argue.

President Mourdock: Sure, I just wanted to announce it at the start of the meeting.

Bill Jeffers: It says that in the ordinance, kind of, you know. Okay, Heartland Ridge, Section 3 is actually outlined for you there in orange, but it is truly an extension of Heartland Ridge, Section 2 which is outlined in red. They've extended one cul-de-sac over to serve several lots in the bottom right-hand corner. They made some other minor changes in lot lines. None of this has been platted yet. It will all be platted at one time, Heartland 2 and then Heartland 3, but the drainage plan had to be redrawn to reflect the new numbers of lots and the new amount of water, etc. It is a preliminary plan. They are providing one larger lake and eliminating the very small cumbersome basin at the back of Lot 18 and 19...I think it's 18 and 19. The lake is in yellow. There is a creek...pardon?

President Mourdock: Is this off Old Petersburg?

Bill Jeffers: Oh, I'm sorry. This is out on Hogue Road past Shutte Road.

Commissioner Jerrel: Okay.

Bill Jeffers: You've got Ashley Estates to the west that is served by Eickhoff Road. Mr.

Broerman of Three I Engineering did that and Jagoe is out there building now. You have Chapel Hill on the right-hand side across the creek which is shown in green on the right-hand side of the plat. That's Chapel Hill, large lots that is already...

Commissioner Tuley: Been there a while?

Bill Jeffers: Yeah, it has been there 12 years or more, I think, mid 80s. Heartland Ridge, Section 1, is to the east at the bottom of the page and it enters off of Hogue Road halfway between Shutte and Eickhoff Road. Okay, this is one large lake. Most of the drainage goes into the lake. There is some peripheral drainage that goes into the natural creek, but its flow rate is compensated by the amount that is held in the lake and our office recommends approval of Heartland Ridge...the preliminary plan for Heartland Ridge, Section 3.

President Mourdock: Comments? Board?

Commissioner Jerrel: I'll move approval of Heartland Ridge, Section 3, preliminary plan.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Arrowood Subdivision - Preliminary drainage plan

President Mourdock: Arrowood Subdivision.

Bill Jeffers: Arrowood Subdivision is very close to the one that Billy just had.

Commissioner Tuley: Billy had that Ashwood?

Bill Jeffers: Ashwood. Right, it is just north of Ashwood. It's on Bergdolt Road. You go out from Oak Hill Road towards the trailer park at the end of Bergdolt Road towards Pigeon Creek and before you get to the trailer park after you pass the entrance to the Romain Subdivision this is Ashwood. It's a very simple plan and there is just, I think, three cul-de-sacs that enter off of Bergdolt. It has peripheral drainage easements around the outside edge to gather water that is entering onto the project from other people's property directing it over to the basin. Then it has interior swales also shaded in green that carry the water into area inlets and pipes over to the basin and then the street drainage also is carried through inlets and pipes over to the basin. He is providing a swale out along Bergdolt Road because there really is no side ditch on Bergdolt Road. That drainage will pass straight through and down to an existing corrugated metal pipe, it's a county pipe, under Bergdolt Road near the southeast corner of the project. All the discharge from the pond after its...through its control release structure will discharge into that pipe as well which goes into a natural channel and off over towards Pigeon Creek. There is a few concerns that we will address with Mr. Morley's office. There is an off-site lake. I just want to make sure...I want to go out and look at the dam and make sure there is not going to be any need for a toe drain or an intercepting swale other than what he shows there and I am asking for some details to be shown with regard to erosion control. I'm sorry, on a lot of these, because of all the other numbers and lines, they don't put the lot dimension, but could you tell the Commissioners approximately what these lot sizes are.

Ron London: I believe they are 60 by 120.

Bill Jeffers: So 60 would be your minimum frontage allowable and 120 is...well, a pretty common depth. We're seeing more of these on the north side as time goes along.

President Mourdock: Yeah, the thought occurred to me a moment ago how many lots have we approved either in final or preliminary tonight because there are a bunch of them.

Commissioner Jerrel: A bunch.

President Mourdock: It's amazing.

Bill Jeffers: Well over 300.

President Mourdock: Yeah, well over, well over. Is there a motion for preliminary?

Bill Jeffers: Well, you might want a recommendation. Our office recommends approval of the...I don't mean to interrupt you.

President Mourdock: That's quite alright.

Bill Jeffers: I've let that slide on ones I didn't like, but this one is okay.

Commissioner Tuley: We catch you though didn't we?

Bill Jeffers: Our office recommends approval of the preliminary plan for Arrowood Sub. I don't know if there is anyone here to speak.

President Mourdock: Anyone to speak on this one? Okay.

Tom Stofleth: My name is Tom Stofleth and I live at 3800 Bergdolt Road.

President Mourdock: I'm sorry, I couldn't hear your name.

Tom Stofleth: Tom Stofleth. My lot is directly across the road from this subdivision proposal. I'm wondering whether the ditch that runs through my property will handle the excess water created by all these houses and lots.

President Mourdock: Okay, have you had a chance to see the plan?

Tom Stofleth: No, I've got a drawing of the original (inaudible).

President Mourdock: Right.

Commissioner Jerrel: Where are you in relation to them?

Tom Stofleth: I'm--

Bill Jeffers: Does that discharge onto your property?

Tom Stofleth: It discharges on the property next to mine and then comes across and it goes midway through my property and then cuts back to the property line and

discharges into the larger ditch. I don't know, this pond will probably fill up the first heavy rain we get just based on the water that comes through my ditch. The other evening we had...I increased the size of the ditch next to my house because I was worried about the water jumping into my backyard. I figured it would flood me, so I doubled the size of the ditch to about six feet wide along the first 100 feet from the road and that ditch was full for over an hour the other night with that rain, so you're talking about quite a bit of water. That's, I guess, the equivalent of a three foot pipe being full for an hour. I don't know if this...the pond will probably hold it the first rain and then after that it's just going to keep on coming down that ditch. It's eroding the ditch pretty heavily right now. I don't know if you've been across the road to see that area, but I guess because it runs through a wooded area and then cuts over so bad that--

Bill Jeffers: Basically, this man's concerns are identical to the previous remonstrators that were up here in that he is experiencing more and more heavy rainfalls and obviously that will cause erosion. This pond is designed to lessen the rate of runoff from a developed area to what you would expect during a ten year storm if this was left undeveloped and that will lower the rate at which water will travel through your ditch from this property during storms, up to 25 year storms. Those that exceed that will spill over through the spillway and you will experience about the same as what you would, you know, any other time when you have those intense rainfalls.

Tom Stofleth: Right, Frank, has your pond ever dried up? This pond is--

Frank Pepe: No.

Tom Stofleth: --up above there.

Frank Pepe: My name is Frank Pepe and I live adjacent to the property. I can show you.

Commissioner Jerrel: Okay.

Frank Pepe: This is my property here.

Bill Jeffers: This is the pond right here.

Frank Pepe: This is the pond that I had. I guess I'm at the low point of a hill that comes this way from the west to the east and then down another hill that comes from the east to the west and all the water flows along Bergdolt Road and comes through here and onto this property. I guess the concern I had is when this gets all paved, houses get built, driveways, patios, sidewalks, there is not going to be much ground left to absorb any water. I've seen a lot of water come down this hill in the last 13 years and at times there have been ponds in here because this has not been able to handle it particularly when the Ohio was high and Pigeon Creek was flooding and backing up. There was no place for the water to go. I guess the question is, is this going to be big enough here to handle that situation? That's the concern I had. Can you tell me what the dimension--

Bill Jeffers: If you're referring to June 9 of 1996, no, it will not handle it.

Tom Stofleth: I'm sure it won't handle that.

Frank Pepe: What is the size of that pond?

President Mourdock: It's 80 by 180.

Bill Jeffers: There should be a cross section. I didn't bring...I just cut the plat drawings out of there. I didn't bring the full set of plans.

Commissioner Jerrel: It's about 120 by 180, isn't it, or 200?

President Mourdock: I'm calling it 180 by 180 which would make about 3/4 of an acre. That's in yellow.

Frank Pepe: In the yellow?

Bill Jeffers: That's inside the bank.

Frank Pepe: This is a bank here?

Bill Jeffers: No, a green shaded area is the easement that is the maintenance easement around the lake.

Frank Pepe: I see.

President Mourdock: How much freeboard does this one have? Spillway elevation 391.

Ron London: The pool elevation is 389, the spillway is 391, so you've got two foot.

President Mourdock: What that means is that from the normal pool of let's say you get some rain and it fills it and it slowly goes down to what is normal elevation, then you've got two feet from there to when it's going to again flood out the spillway. So you've got two feet of storage capacity. Basically two acre feet or a little less figuring at about 3/4 of an acre so about one acre and a half.

Ron London: Doing the calculations for the capacity you've got twice the capacity needed for the 25 year storm, so it should reduce the flow.

Frank Pepe: What is the depth of that pond?

Ron London: Well, the existing elevation is at 390 and the pool elevation is going to be at 389, so the top of the berm is at 392, so basically you have...you know, it's going to be from the top of the berm to the pool it's going to be three foot.

Frank Pepe: That's all?

Bill Jeffers: It's a dry basin.

Frank Pepe: No.

Bill Jeffers: Or are you talking about--

Ron London: Well, I meant from pool down. We're going to go at a 4:1 slope, so it's basically going to be, I know, five foot or six foot deep.

Commissioner Tuley: Pooling, is that what you're saying?

President Mourdock: At pool. Pool elevation to the deepest spot is going five or six feet.

Ron London: To the top of the berm, yes.

President Mourdock: This comment here in the basin, 1.48 acres, is that everything in the green? Because that one inch to 120 that doesn't look right to me. You know, is that 1.48, is that returning--

Ron London: That basin, 20 is this--

Bill Jeffers: He's talking about--

Ron London: --dark line right here.

President Mourdock: Ah, okay.

Bill Jeffers: Watershed basin. Watershed that they use to calculate runoff.

President Mourdock: My earlier comment was correct then, you've got about one acre and a half...1.5 acre feet of water.

Tom Stofleth: You feel that is going to give me better protection than I've got now?

Bill Jeffers: Has there ever been any water over Bergdolt Road on top of that pipe?

Tom Stofleth: Yep.

Bill Jeffers: When the creek backed up it backed up over the top of this pipe at that location?

Tom Stofleth: Yes.

Bill Jeffers: How deep was it?

Tom Stofleth: Over a foot. It's happened probably five times since I have been there in ten years.

Bill Jeffers: A foot deep or so?

Tom Stofleth: Yes.

Bill Jeffers: When that trailer park flooded in '96?

Commissioner Jerrel: Everything flooded in '96.

Tom Stofleth: I'm sure it did then. Yeah, I got four inches in my drive that time.

Bill Jeffers: Okay, well that means it still won't flood over the top of that basin then will it? In other words, the water wouldn't back up over the top of that basin, so in that case, yes, you would experience a lower rate of runoff from this property during a 25 year storm and if you would like for the final version to come here with an exact figure because Morley's office has built more storage into this than what is required for 25

years, I could tell you, you know, what it compares to. We'll give you a 50 year storm being reduced to a ten.

Tom Stofleth: When it hits that spillway it can handle a 100 year?

Bill Jeffers: Once it hits that spillway you're going to experience whatever you would normally experience whenever you get a 100 year storm. You have, I mean you can only built up to a certain point.

Tom Stofleth: Except for the fact that there will be more water than before.

Bill Jeffers: Right, because of the hard surface.

Tom Stofleth: I guess my concern is the ditch that follows my property or runs through my property will have to have some kind of a spillway for these heavy rains so that instead of flooding my property it will move on down because the ditch that winds through there it needs a straighter path to reduce the runoff or whatever.

Bill Jeffers: Are you suggesting that improvements be made to your creek?

Tom Stofleth: That's what I am suggesting.

Bill Jeffers: By whom?

Tom Stofleth: By the developer.

Bill Jeffers: That would be kind of uncommon. I mean, usually people improve their own property.

Tom Stofleth: I have.

Bill Jeffers: Right, you described that earlier that you had. You saw a need for it. In other words, before this ever came up you saw a need for the improvement, but you had already done it before you ever knew this was going to happen.

Tom Stofleth: Right. I guess my concern is that this pond will fill up in the first heavy rain and from then on it will just continue to flood.

Bill Jeffers: Only if there is another thunderstorm that follows that first rain you're talking about.

Tom Stofleth: Right.

Bill Jeffers: You're saying if the first rain exceeds the 25 or 50 year storm design and then there is another storm immediately following that one within an hour or so, yeah, that could happen. That does happen.

President Mourdock: In which case you get to have the same affect as if it wasn't there at all, if no spade of dirt was ever turned over.

Bill Jeffers: Except that what he is saying is there is more cubic--

Tom Stofleth: You've got more hard surface.

Bill Jeffers: You've got more hard surface running through that area.

Tom Stofleth: You've got twice the water.

Bill Jeffers: Right, that is the case everywhere that there is development, yes.

Tom Stofleth: I guess if you think that's going to be adequate that's what I'll have to accept. I don't know that it will.

Bill Jeffers: Well, it's adequate under the terms of the Vanderburgh County Drainage Ordinance.

President Mourdock: In fact, it's over designed for the terms of the ordinance.

Bill Jeffers: Right.

President Mourdock: Meaning there is more storage capacity there than is required.

Bill Jeffers: Morley's office is representing that there is more storage capacity in this basin than is required by our ordinance and I will have that exact figure for you at the final...with the final figures.

Frank Pepe: You're not thinking of changing it are you?

Bill Jeffers: No.

President Mourdock: Changing the ordinance?

Frank Pepe: You're not thinking of changing it?

Bill Jeffers: No, I think he wants the dirt.

Frank Pepe: Do what?

Bill Jeffers: I think he must want the dirt.

Frank Pepe: Oh, I imagine.

Bill Jeffers: Out of the basin.

Commissioner Tuley: To put on some of those other low areas.

Bill Jeffers: We have lots of basins that are over designed simply because of the need for fill dirt.

Frank Pepe: Oh, I see.

President Mourdock: Acting on this tonight, again, this is preliminary and you're certainly free to visit Mr. Jeffers' office at the Surveyor's Office.

Bill Jeffers: Do you need a phone number?

President Mourdock: Get more information as he compiles more information.

Bill Jeffers: There will be a hearing at Area Plan this Wednesday night and then they will most likely be back with a final drainage plan on the fourth Monday of June. I don't have a calendar.

President Mourdock: The fourth Monday of June, that's right.

Bill Jeffers: It's 435-5117, Bill Jeffers, J-e-f-f-e-r-s.

President Mourdock: I vote for Jones!

Bill Jeffers: Like I said, this will come back in final form on the fourth Monday of June just like tonight. This just happened to be June 1st because last Monday was, excuse me, Memorial Day. That's the only reason it's July 1st today.

Frank Pepe: Thank you very much.

Bill Jeffers: Yes, sir. You all...either one of you are free to call me anytime. Leave a message if I'm not there.

President Mourdock: Thank you very much.

Commissioner Jerrel: Is it appropriate for a motion? I move approval of preliminary for the Arrowood Subdivision.

Commissioner Tuley: Excuse me, second.

President Mourdock: So ordered.

Petition to remove obstruction - Joe and Mary Nickolick

President Mourdock: A petition to move an obstruction.

Commissioner Tuley: Oh, put on your black robes.

Bill Jeffers: This is a petition to remove an obstruction which Mr. Nickolick represents he has requested the property owner to remove and it has not been removed. It's located just north of the old Evansville Drive-In Theater property that he is developing. The waterway empties into Sonntag Stevens Ditch and apparently he is having trouble getting his water to leave the development property and enter Sonntag Stevens ditch because of overgrowth of vegetation and other debris.

President Mourdock: Okay, is there a motion that we accept this petition for removal?

Commissioner Jerrel: I move that we accept this petition to remove obstruction.

Commissioner Tuley: Second.

Bill Jeffers: And order the Surveyor to inspect the site.

Commissioner Jerrel: Absolutely.

Commissioner Tuley: Absolutely. Amended and seconded.

President Mourdock: Motion amended, second, so ordered. Good luck in dealing with the Delaware Limited Partnership that is located in Dallas, Texas.

Commissioner Jerrel: M6, LP Delaware.

Bill Jeffers: I appreciate your encouragement.

Crawford Brandeis Ditch - Right of entry

Bill Jeffers: There is a letter from your special deputy for the reconstruction of Crawford Brandeis Ditch signed by the special deputy recommending that upon the request of Mr. Robert Woodward, the developer of Burkhardt Crossings Subdivision east of and adjacent to Crawford Brandeis Ditch, that we relax...that the Board relax the maintenance right-of-way or entry along the east side of Crawford Brandeis Ditch to a distance of 25 feet east of the easternmost center line of the easternmost culvert that is being installed. There is a drawing that goes with that, but the reason it is worded that way is because the statute allows you to reduce the right of entry on an urban drain that has been piped to 25 feet from the center line of the pipe. Mr. Morley, Jim Morley, Jr., represents Mr. Woodward and the request came through him.

President Mourdock: Okay, the only comment I would have on this is without seeing a legal description and getting all that filed I don't know that there is anything that we can specifically do with it this evening is there?

Bill Jeffers: The drawing itself matches...I mean, it's drawn right on top of a set of Burkhardt Road improvement plans and it clearly shows the old line and the new line.

President Mourdock: Is this a permanent relaxation of the right-of-way?

Bill Jeffers: Yes, sir. This will permanently relax the 75 foot right of entry for an open ditch--

Commissioner Tuley: And this is a closed one.

Bill Jeffers: --as measured from the top of the bank down to 25 feet from the center line of the east pipe.

President Mourdock: Okay, Joe, is my concern--

Bill Jeffers: It's almost mandated by statute.

Joe Harrison, Jr.: Yeah.

Bill Jeffers: If they request.

President Mourdock: Okay.

Joe Harrison, Jr.: You'll be entering that into the record as far as the area defined?

President Mourdock: Yeah, this letter says--

Bill Jeffers: Are you wanting a legal description?

Joe Harrison, Jr.: Well, just more of a...I don't know about an exact legal, but certainly we want something in the record that indicates the boundaries of this relaxation.

Bill Jeffers: Okay, should I asked for a reduced drawing or--

Jim Morley, Jr.: Those plans that we have--

President Mourdock: Sure, go ahead.

Jim Morley, Jr.: Jim Morley, Jr., 600 Southeast Sixth Street. The plans that United sent down, what they did instead of making that relaxation parallel to that pipe because a pipe runs divergent to the section line, they took the worse case point of the pipe in relation to the section line and did an offset of the section line so the reduction is parallel to the section line so for your legal terminology...I didn't bring my drawing tonight, but it has a simple...it's a certain amount of meters because it's metric--

Bill Jeffers: Oh, yeah. It's like 112 meters.

Jim Morley, Jr.: It's certain meters off of the section line, so I would assume that would serve as some kind of legal description because the section line is set at being like three and a half feet off of the center line of Burkhardt Road so therefore that would be a permanent marking.

President Mourdock: Okay, somewhere with this letter from United Consulting there is a set of plans, correct?

“Enclosed with letters are plans showing...”

If we have those I'm ready to act.

Bill Jeffers: Proposed drainage easement 31.3 meters right, which means east, of the section line that runs down the middle of Burkhardt Road and 25.97 meters right of PR-B which is the construction line for Burkhardt Road.

President Mourdock: Alright, is there a motion--

Bill Jeffers: That is 31.3 meters right of the section line and parallel with it from Oak Grove Road to the center of Kelly Ditch.

President Mourdock: Okay, is there a motion then that we accept the relaxation for the right of entry to Crawford Brandeis Ditch as recommended by the County Surveyor's Office?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Blue claims

Bill Jeffers: The only other business I have is those three claims in favor of Terry Johnson Construction for spring mowing of Harper, Kolb and Aiken Ditch which have

been inspected by Jim Josey. Paperwork is in order and the Surveyor recommends payment of the claims.

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Charlene Timmons: If you don't adjourn I need to change the tape.

President Mourdock: Any other business?

Commissioner Tuley: Move to adjourn.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

The meeting was adjourned at 9:00 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison
Charlene Timmons
Bill Jeffers
Bill Mattingly
Dan Pietrowski
Charles Mattingly
Jim Morley, Jr.
Ron London
Tom Stofleth
Frank Pepe
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

-

Bettye Lou Jerrel, President

-

Richard E. Mourdock, Vice President

-

Patrick Tuley, Member

**Vanderburgh County
Drainage Board Meeting
June 22, 1998**

President Mourdock: We'll call the June 22, 1998 meeting of the Vanderburgh County Drainage Board to order.

Approval of minutes

President Mourdock: The first item on the agenda is the approval of minutes from June 1st.

Commissioner Tuley: Move approval.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Update - Rasche property

President Mourdock: The next item on the agenda is for the Surveyor's Office to report on some old business and we'll start with the update on the Rasche matter.

Bill Jeffers: There has been no action on the Rasche property to remove the obstruction as of 5:00 p.m. June 22, 1998, so we can proceed to new business.

Commissioner Jerrel: Yes.

President Mourdock: Okay, new business. Move along.

Surveyor's report - Nickolick petition to remove obstruction

Bill Jeffers: Okay, you received a...oh, no I'm sorry.

Commissioner Tuley: I was going to say, what about Nickolick?

Bill Jeffers: Receive a report on a petition to remove an obstruction that was filed by Joe Nickolick and his wife Mary Nickolick who own a 40 acre tract located at 4209 North Highway 41 which was previously known as the Sunset Drive-In. The Nickolicks are developing it into a commercial and/or industrial park. Basically, a majority of their property drains north across Yokel Road and into a natural surface watercourse that historically carried the drainage from that property northwestwardly to what is now the Conrail rail line and then in a ditch alongside the Conrail rail line it was carried northeasterly into Sonntag Stevens Ditch, which is a regulated drain in Vanderburgh County. Some construction activity slightly shifted the flow line of that. Our investigation found that some construction activity slightly shifted the flow line of that watercourse to the northeast and then subsequently raising the flow line and then subsequently various vegetation, trees, weeds, woody brush, etc., grew up in the watercourse and that vegetation gathers silt, organic debris, rock from Yokel Road that used to be a gravel road, silt, soil, trash and other just general debris that is carried by the storm water periodically through the watercourse and collects against the trees and has caused the flow line over the years to raise up in elevation.

President Mourdock: Who is the owner of that property, Bill?

Bill Jeffers: The owners of the property upon which the watercourse exists and the obstructions were found to exist which were documented, there are obstructions on the watercourse, is M6 LP a Delaware Limited Partnership with offices on Dallas Parkway, Dallas, Texas. The address of this limited partnership is in the petition that was filed by Mr. and Mrs. Nickolick. The petitioners also have notified the respondents with a letter dated April 17, 1998 requesting the respondent to remove the obstruction.

President Mourdock: And there has been no action?

Bill Jeffers: As of today the respondent has failed to correct the problem, so therefore the petitioners are respectfully requesting the removal of the drainage obstruction. They allege that the obstruction removal will promote better drainage on the petitioners' property and will not cause damage to the respondents' property. Basically our report to you, which I'll distribute now, confirms the existence of an obstruction, identifies what it is, confirms the location as alleged by the petitioner, what adverse affect it has on the petitioners' property. We identify the work that would be required to remove the obstruction. We give a proposed flow line for the watercourse that should be reestablished so that the water will positively flow down hill and into Sonntag Stevens Ditch. We limit the work that needs to be done to the first 500 feet north of the petitioners' property. We feel that if that work is done within that 500 feet it will find its way through the watercourse to the ditch without any further work. The Surveyor recommends that the Board notify the petitioners and the respondents that the Board will hold a hearing on a date set by you and set out in that notice and that all concerned parties should attend that hearing and be heard. Of course, that hearing has to be held within 90 days of the petition being filed and it was filed on May 27, 1998.

President Mourdock: Is there a motion then to have the County Attorney draft such a notice to the property owner?

Commissioner Jerrel: I so move.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: We will be recommending at the hearing that the Board find that the obstruction described does exist, that the Board find that the obstruction was not caused intentionally, but rather was the result of natural and common causes. That the Board order the obstruction be removed and the watercourse be repaired as described in this report and in compliance with applicable drainage statutes and we would also recommend that the Board determine at the hearing that the cost of the work be assigned to and paid by the parties who are benefitted by the work as determined by methods defined and prescribed by IC 36-9-27.4 and there are some attachments and some maps to show you. Here is the original signed one. I have some additional copies for Mr. and Mrs. Nickolick and the respondent.

President Mourdock: Are the Nickolicks or their representatives in the audience? Okay.

Bill Jeffers: The only question I would have is who drafts the notice to the respondent?

President Mourdock: The County Attorney will do that.

Joe Harrison, Jr.: Our firm has done some work for the Nickolicks in the past and we are currently doing some work. I don't know what, but I know we're doing something for them and I think it may be advisable for the Board, that the notice be prepared. I can prepare it for you all. You all would send it out. I think when the hearing is set I probably should not be...I should not be at the hearing. I would recommend that maybe Mr. Ahlers sit at that hearing whenever it is set by this Board if that is agreeable to the Board. I just think that would be the fair thing to do. So if you all...the petition was filed May 27, 1998. You probably ought to have it set in July so it ought to be at the last meeting in July which would be the...what would it be...July?

Commissioner Jerrel: July 27th.

President Mourdock: July or August.

Joe Harrison, Jr.: We could do it in the August, but I don't know--

Bill Jeffers: There is some urgency and I'm not sure...there is some urgency in that Mr. Nickolick is developing the property and at this time every time it rains he has to pump water across the road to get rid of it to continue his construction.

Commissioner Jerrel: Can't we do it on the 13th or the 20th?

President Mourdock: You mean the next Drainage Board meeting is the 20th?

Joe Harrison, Jr.: Or you can have a special. I mean, I know you don't want to come for that, but I mean it's whatever you all want to do.

Bill Jeffers: Makes no difference to me, it shouldn't take very long.

Joe Harrison, Jr.: Do it after a regular meeting.

Commissioner Jerrel: Well--

Joe Harrison, Jr.: Or if you want to have it during the regular meeting I just wouldn't be here for that.

Commissioner Jerrel: Okay, well, let's decide. If there is some urgency we ought to set it earlier. All we're waiting on is the letter to go to those--

Joe Harrison, Jr.: I think we've got to give them sufficient notice, that's the thing.

President Mourdock: You said you could handle the letter.

Joe Harrison, Jr.: I'll get it to you all to sign.

President Mourdock: You'll take care of the letter?

Joe Harrison, Jr.: For you all to sign.

Bill Jeffers: Say that's going to take a week and give them--

Joe Harrison, Jr.: It won't take that long.

President Mourdock: Well, we won't be together for a week.

Joe Harrison, Jr.: Oh, okay.

Bill Jeffers: Once they receive it then they ought to have at least ten days notice.

Commissioner Jerrel: The 20th?

Joe Harrison, Jr.: Is that rezonings on the 20th?

Commissioner Tuley: Yeah.

Joe Harrison, Jr.: That's rezonings?

Commissioner Tuley: Yep.

Commissioner Jerrel: We could do that at the conclusion of our regular meeting.

Commissioner Tuley: Right, we have a regular short meeting. We always end up getting done before 7:00.

Commissioner Jerrel: Yeah, so why don't we just plan on doing it the 20th?

President Mourdock: So we need to schedule a special Drainage Board meeting on the 20th and advertise that?

Joe Harrison, Jr.: What time do you want to do it, 6:30? Or do you just want to do it following our meeting?

President Mourdock: Immediately following.

Commissioner Jerrel: Immediately following, it will probably be around that time.

Joe Harrison, Jr.: Okay. We'll do a legal for that.

President Mourdock: I guess just to be formal with it is there a motion to have a special meeting on the 20th?

Commissioner Jerrel: I'd like to move that we hold a special meeting on the 20th of July for the purpose of responding to the Nickolick petition for obstruction.

Commissioner Tuley: Second.

President Mourdock: So ordered. Okay, what do you got next, Bill?

**Receive petition to remove obstruction from
John F.W. Koch and Wanda L. Koch**

Bill Jeffers: For you to receive a petition which was filed in your office on June 5, 1998 for the removal of an obstruction. It was filed by Mr. John F.W. Koch and Wanda L. Koch of 201 Thompson Avenue, Summit Place, Section 1, Evansville to remove an obstruction from a drainage easement on the east side of the property at 136 Lant Lane

which the Kochs allege blocks drainage from their property. To receive this and order the Surveyor to investigate the subject of the petition and file a report with you at your next regular meeting.

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: This is the original petition here.

Commissioner Jerrel: When you go to a place like that, since that's...do you let the homeowners know that you're there? I mean, do you usually let them know that you're present?

Bill Jeffers: Yes, but by your ordering the Surveyor to investigate the alleged obstruction that allows the Surveyor to enter onto land up to 75 feet either side of the drain.

Commissioner Jerrel: Okay.

Bill Jeffers: That just makes it official in case they are not there. I think this will be an easier one because this is a drainage...this involves a drainage plan which set aside a large strip of ground to be used as a detention swale and they planted trees and so forth in it. I'm sorry, here is a copy of a quietus or a receipt stamped by the Treasurer showing...certifying that John and Wanda Koch submitted a petition.

**Letter from Dan Gregory concerning detention basin
Lot 9, Mt. Ashley**

Bill Jeffers: Okay, the next item is for you to receive a letter from Dan Gregory notifying your Board of person or persons filling a detention basin in Lot 9 of Mt. Ashley Estates. I'm not sure how many of you were on the Board when this came up years ago, but when our office was asked by your Board to go out and inspect Mt. Ashley's drainage plan we found that it was not built in compliance with the plan that was on file and it had flooded some homes, patios and walk-in patio doors in Brookview Subdivision because the water was spilling over the dam instead of through the spillway. We went through some hearings and some negotiations with the developer and he repaired the dam and put it into the shape that it was planned to be built, but since then, of course, people in the subdivision below Mt. Ashley have always been apprehensive about anything that was going on uphill of them and one of the...Mr. Dan Gregory lives immediately downhill of the dam and he noticed they were filling in the detention basin. I went out and looked at it this morning and it appeared to me that they were simply converting a wet pond into a dry basin, but I would like for the Board to order the Surveyor to investigate and file a report with you at your next meeting. I think Mr. Fritz should at least be required to submit a plan showing how he intends to construct the basin as he fills it from a wet pond to a dry basin to make sure that he still has the same volume of detention that was required by his original plan.

Commissioner Tuley: So moved.

Bill Jeffers: Here is the letter for the Recording Secretary.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: I viewed it from an accepted public roadway today. I didn't go onto the lot.

**Request to relax right-of-entry - Kelly Ditch
Woodward Realty**

President Mourdock: Okay, the next one is on Kelly Ditch.

Bill Jeffers: Okay, we received a request from the developer of Burkhardt Crossing Subdivision, which is Woodward Realty, to relax the right-of-entry on Kelly Ditch. I have the drawing that was submitted by Morley & Associates on behalf of the developer. There is no real need to look at it right now. I am asking you to order the Surveyor to investigate the site, compare it to the drawing that was submitted by Morley & Associates and make a recommendation as to how far down from 75 feet to relax that right-of-entry. The reason I am asking for that is that I think in some places we may be able to go down as much as 25 or 30 feet as the petitioner is asking you to do and in other places we may need slightly more than that just to gain access from roadways that are being built out there and across from Burkhardt Road that is being extended. The initial comments from the Surveyor are intended to help the developer should he have any perspective buyers between now and the time we file a report and make our final recommendation for the relaxation next month to assure the developer and any potential buyers that we fully intend to make a recommendation to reduce it down to somewhere in the neighborhood of 30 feet with possibly no greater than some very small areas up to maybe 40 feet just to gain access from public roadways, so I want him to be able to say that to his buyers so they are not freaked out by the 75 foot right of entry across their lots.

President Mourdock: So, again, is there a motion to have the--

Commissioner Jerrel: I so move.

Commissioner Tuley: Second.

President Mourdock: So ordered.

**Request to locate commercial sign within 25 feet of Hirsch Ditch
Carl and Linda Riecken**

President Mourdock: Next item I have, Bill, is a request by Carl and Linda Riecken. Is that correct, Riecken?

Bill Jeffers: The next item is a request from Carl and Linda Riecken, owners of Riecken's Shoes, located at the address shown on the plan that Mr. Mourdock is holding on Oak Grove Road. The lots on Oak Grove Road basically cross Oak Grove Road. The shops and improvements on the lots are located on the south side of Oak Grove Road, but the property actually extends across Oak Grove all the way to the center of the ditch or to the old line of the Wabash and Erie Canal. The area on the north side of Oak Grove Road has never been wide enough for anybody to build an improvement over there other than a parking lot. There is an overhead high voltage transmission line and Ad-Craft has

been retained to put an on-site commercial sign for Riecken's Shoes on their property on the north side of Oak Grove Road at a point shown on their drawing and there is a picture attached to that with a man standing at the approximate location of the sign. The sign post would be approximately 12 or 14 feet south of the top of the bank and approximately 19 or 20 feet north of the edge of Oak Grove Road. It has to be placed there because they have the overhead transmission lines, they can't get any farther back from the ditch than that. If you look at the picture you'll notice that we have sufficient room to maneuver mowing machines around the sign post and mow the ditch. I would make the recommendation at this time that you allow Carl and Linda Riecken to locate a commercial sign within 25...inside of the 25 foot setback line for Hirsch Ditch so long as they understand that in the letter I send to them acknowledging what your action is that we would also insist that they hold the county harmless for any rubbing of rubber tires...the tractors rubbing rubber tires up against their poles or in the most extreme condition we may have to order that they remove the sign temporarily should an emergency occur that we have to bring excavating equipment in there and work at that location. Other than that, I would not anticipate any problem and I don't anticipate any problem. They already mow the grass around the area where the sign is. We just mow the interior of the ditch and the top of the banks.

President Mourdock: Just as a question, Bill, I've been here three and a half years, I don't remember that we've ever done one of these before have we where we've given somebody permission to do a sign or anything else?

Bill Jeffers: Not under your Board. Not under your current members of your Board, but back in the mid to late 80's we allowed a series of billboards to be erected between Green River Road and Burkhardt Road along this same ditch and we allowed them to be located at the very top of the bank and the sign company that did locate them there agreed that if any problem arose regarding maintenance or repair of the ditch bank caused...repair caused by their installation or maintenance or if their installation interfered with that they would assume the maintenance, such as mowing or repair the damage that may be caused by the erection of the signs. That's all we're asking for here is that the Rieckens agree to the same conditions. It is their property, we just have the right-of-entry there.

President Mourdock: What is the will of the Board on this one?

Commissioner Jerrel: I had a question first before we vote.

Bill Jeffers: Yes, ma'am.

Commissioner Jerrel: It's because I don't know the rules, but I thought signs were under the jurisdiction of the Area Plan.

Bill Jeffers: They are but this one is actually an on-site or on-premise commercial sign, it's not considered under the same rules as a billboard and does not have to be spaced out so many hundred feet from the closest billboard.

Commissioner Jerrel: I didn't because--

Bill Jeffers: That is a good question because this may cause a rash of individual signs for the individual commercial ventures along the ditch.

Commissioner Jerrel: Could we make a motion...if we make a motion to approve that it

is subject to...I mean, I feel like...I don't want to start something.

Commissioner Tuley: You're looking at it, but I need to say I'm not going to be able to vote on this one because it is Ad-Craft and even though it is not my brother's job he does work for Ad-Craft. I really can't vote on this one. You can ask Bill to answer your questions.

Bill Jeffers: The only thing I'm concerned about would be if it created a rash of signs I would come back and recommend that only one be allowed per property and that...you know how I feel about property rights. These people do pay taxes right up to the ditch bank. They do maintain it. They mow that property over there. Other people are parking on their portions of it like down at Kight Lumber they park their cars right up to the top of the ditch bank. We simply ask them to move them when we come down through there and mow. I would say we would want to limit it to one signpost per property and we would want to make sure that they understood if an emergency arose that we had to reconstruct the ditch and they were in our way the sign may have to temporarily come down. They might want to mount it in such a way they could lift it off the base and secondly that we not be held responsible for any bumping or rubbing of the signpost by rubber wheels on the tractors that mow that because the wheel base is about 18 feet.

President Mourdock: Joe, do you have any particular comments on this one regarding anything we need to be wary of?

Joe Harrison, Jr.: No, other than the county will be held harmless for any and all claims relating to damages that could be caused to the sign--

President Mourdock: Which I think Bill has already stated.

Joe Harrison, Jr.: --or claims arising from any third party who strike the sign. We would want to be indemnified if the county should be sued or brought into any claim.

Bill Jeffers: You want their attorney to write that document up?

Joe Harrison, Jr.: Yes.

Bill Jeffers: So it doesn't cost the county anything to write it.

Joe Harrison, Jr.: We would certainly want to be indemnified for any and all actions arising from third party striking such sign that is near our drainage ditch area.

President Mourdock: Essentially the same type of thing that we granted a couple of weeks ago at the Commission regarding the building of a fence in the county's easement.

Joe Harrison, Jr.: Right. If you would want them to submit that for execution by the Board, but certainly we would need those conditions. In addition, the right to remove or request removal of the sign for any purpose--

Bill Jeffers: Associated with maintenance and proper drainage.

Commissioner Jerrel: With those caveats then I'll move approval.

President Mourdock: Okay, and I will second and so order.

Joe Harrison, Jr.: Again, you'll get something to this Board for execution?

Bill Jeffers: Right. You said that has been done on a fence in county right-of-way. Is there something I can use to copy?

Joe Harrison, Jr.: Yes, I can get something to you.

President Mourdock: Boyle Lane.

Joe Harrison, Jr.: We've got a couple of situations.

President Mourdock: Just very recent, Boyle Lane.

Bill Jeffers: Oh, okay.

President Mourdock: That one is kind of a tough one. It is a property rights issue. It's their property. We have the easement, but I could see where someone down the road wants to come in and claim there is an obstruction in the county drainage and we put it there, we approved it, so we get sued under our own ordinance.

Commissioner Jerrel: My question is even more elementary because I thought Area Plan controlled all signs.

Commissioner Tuley: Well, if they met all of Area Plan's conditions in the ordinance he is still into our easement and that's why he has to come to us for approval. Even if he gets approval from us, if he doesn't meet their standards they can't put them up anyway.

Bill Jeffers: I think Area Plan is ready to approve it, but sent them over to us because--

Joe Harrison, Jr.: Yeah, they had to meet the height restriction and that sort of thing. They can't put a monstrosity out there.

Final drainage plan - Waterford Plaza Commercial Subdivision

President Mourdock: Next one we have a final drainage plan for Waterford Plaza.

Bill Jeffers: This is the drainage plan that I asked you to put on hold for one month last month because there was a pipe crossing of Burkhardt Road and I wanted to talk to Mr. Stoll about that and we have had a meeting, Mr. Stoll and myself, the engineer and the developer of this project, and came to an agreement on everything. They did go ahead and plan from that and submit a final drainage plan which our office will be...is recommending at this time with the following conditions. Number one, details of the discharge into Stockfleth Ditch, which I have highlighted, I believe, in yellow going over along Oak Grove Road, details of the discharge structure into Stockfleth Ditch be included in the street plans submitted to the County Engineer because it discharges right out by a new county bridge that was constructed by the Commissioners. Number two, discharge from the red shaded area into Crawford Brandeis Ditch be incorporated into the Burkhardt improvement plans. Both of those items can be channeled through the County Engineer because it would require his approval anyway and then they could be incorporated into the plans that United Consultant has a contract on and with those two conditions our office recommends approval of the final drainage plan for Waterford.

President Mourdock: Waterford Plaza.

Bill Jeffers: Plaza.

President Mourdock: Is there a representative here representing Waterford Plaza? Joe, you've heard the conditions there, do you have any comments about that? Okay. That was Joe Ream saying he agreed to the conditions.

Commissioner Jerrel: Okay, with that--

President Mourdock: Since you couldn't be heard on the mike.

Commissioner Jerrel: --I'll move approval of the Waterford Plaza Commercial Subdivision final drainage plan.

Commissioner Tuley: With the conditions outlined and agreed to, I'll second.

President Mourdock: I will say so ordered.

Final drainage plan - Wexford Estates

Commissioner Tuley: We have to close up shop and go home, he doesn't have his drawings.

Bill Jeffers: Yeah, I don't want to go back to the office. Okay, these are the final plans for Wexford Subdivision off of Old State Road which got an extensive hearing in preliminary form last month. Basically, what I was looking for this time was the erosion control plan that would show that the drainage plan was in conformance with the Indiana Handbook on Erosion Control recommendations. That's shown on the second sheet, the one I have colored up. I also asked for a detail showing the outfall from the basin being located downstream of the sewer line crossing of the creek because I didn't want the discharge out of that basin to interfere with or be interfered with by sewer lines or manholes that cross the creek and that's shown. They adjusted that. I asked for proof of and a design incorporating that proof that if all the inlets and pipes carrying the creek through the subdivision were blocked, totally one hundred percent blocked by debris or whatever, that the discharge...upstream discharge for a hundred year storm could pass safely through the subdivision without imperiling a house. They have shown it in a thick set of calculations what the one hundred year flow would be over the top of the street and through the swale at the top of the pipe if the pipe were plugged, that shaded area that I have outlined in orange and shaded in yellow, it would pass through and they show an elevation of the lot on one side of that at 423. I've asked that the house to the south of that one hundred year overflow be located approximately two feet above street elevation and I've sketched that elevation in which I believe is 425 ½ feet above sea level give or take a half foot. I believe that the engineer indicated that all that is copacetic with the developer. I believe the developer is in the audience here, Mr. Lamb, and so our office recommends the final plan for Wexford Estates conditioned upon the recording of the off-site easement for the discharge of the basin into the creek onto someone else's property. The reason that easement has not been purchased and recorded is due to the fact that, and I understand this, the developer has a verbal agreement from the property owner, but really there would be no need for him to purchase it and record it until these plans are passed. Otherwise there would be a document sitting down there in the Recorder's Office that indicated something existed. So with those conditions that he go ahead and...if our recommendation is acted upon positively, that he go ahead and

purchase that and record the document showing that easement and with the other notations on the plat, our recommendation is for you to approve the final plan for Wexford Subdivision.

President Mourdock: Okay, any comments from the audience, representatives, regarding those conditions?

Commissioner Jerrel: I'll make a motion that the Wexford Estates conditional approval of off-site easement that be purchased and recorded and I move with that condition we approve the final plans.

Commissioner Tuley: Second.

President Mourdock: So ordered. Just for the record, the developer in the audience seemed to acknowledge to the positive that he accepted those conditions.

Bill Jeffers: I would encourage him to continue to have his engineers and his workman refer to the Handbook on Erosion Control. That particular area has exhibited some erosion over the past 20 years.

Unidentified: I would just like to--

President Mourdock: State your name for the record.

Jerry Lamb: Jerry Lamb, Metro Properties. I would just like thank the Commissioners and Board for your patience in dealing with this issue. I think all the points that were raised have been dealt with sufficiently and some of the things that Bill Jeffers talked about this evening regarding the overflow from the one hundred year flooding map, those are all good points and will actually help me in demonstrating that we've got a good project here to potential lot buyers down the road. So I want to thank you again.

President Mourdock: Sure, we appreciate you working with Bill and the neighbors. When this came through for preliminary, as you probably know, we had a number of folks here to speak on it and I am kind of surprised that things have worked so amicably.

Commissioner Jerrel: Ten pages.

Bill Jeffers: There were some out in the hall earlier that I recognized from that group who apparently looked at...must have looked at the new information and went back home.

Jerry Lamb: I think we've shown that all the issues have been dealt with and they are satisfied. Thank you.

President Mourdock: We like it when it works that way. Thank you.

Final drainage plan - Keystone Estates Section V, Phase A

President Mourdock: Next is Keystone Estates Section V, Phase A.

Bill Jeffers: Right, and this is a final plan. Okay, here is Heckel Road on this side. You're familiar with the subdivision. That doesn't mean we're adjourned does it?

Commissioner Jerrel: No!

President Mourdock: We're still seated!

Bill Jeffers: Okay, the reason I'm showing you that first is the pink outline around the boundary of those lots indicates what Section V, Phase A is. Your minutes of the meeting of the Drainage Board February 24, 1997 found on page six of those minutes your passing of the preliminary plan was conditioned on your response to my apprehension about Lots 119, 120, 134 and 135 which are located immediately beneath an earthen dam or a lake owned by adjacent landowners. The dam was not in very good repair at the time. It still needs some repairs done on it. Basically, I was saying that any final approval would be conditioned upon either the dam being repaired sufficiently to allay those apprehensions or that those lots not be included for building permits. I'll show you the second item which is a plat of what will be known as Keystone Section V, Phase A which shows the boundary of the subdivision excludes those lots and I will tell you that there are plans on file in our office that I have reviewed that show what the developer and the neighbors are going to enter into as a construction project to repair the dam. They look like sufficient plans and then the developer of this subdivision will deed a strip of ground from those four lots over to the owners of the lake that will include all the earthen structure and all the improvements and repairs that are being done to that lake. The drainage plan for all the lots and streets and properties within what is know as Section V, Phase A inside that pink boundary on your drainage plan sheet have been reviewed and are sufficient and comply with the 1994 ordinance and our recommendation is to approve the final plan for Keystone Section V, Phase A which does not include any of the lots that are noted in your minutes of February 24, 1997.

President Mourdock: As such there are no conditions?

Bill Jeffers: No conditions on this whatsoever.

Commissioner Jerrel: I would like to move approval of the final plan, drainage plan, for Keystone Estates Section V, Phase A.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: The documents that are needed to make that land transfer and conclude the agreement between Mr. Bussing and his neighbors that are going to join with him in the repair of the lake, the legal documents to finalize that agreement are still being prepared by the various lawyers that's why the holdup there.

Preliminary drainage plan - MJM Industrial Park

President Mourdock: The next one is for preliminary approval.

Bill Jeffers: Yes, sir.

President Mourdock: MJM Industrial Park, Old Boonville Highway at the Eagles Country Club.

Commissioner Tuley: Mark J. Miller.

President Mourdock: Uh?

Commissioner Tuley: Mark J. Miller, MJM.

Commissioner Jerrel: Oh.

Bill Jeffers: Okay, this property was previously used by the Eagles Country Club as their spot shoot area directly across the street from the Eagles Country Club parking lot and building. It is that long tin roof shed that the shooters stood under and they shot the targets 40 yards distance to the east. I believe that Mr. Mark Miller has acquired this for development into an industrial subdivision. It is also across the street from Miller Truck Supply. What I have done here is shown you...this is a preliminary plan and what I have done here is shown you that he intends to excavate a pond shaded in blue in the southeast corner or lower right-hand corner of your sheet. That's not a detention basin per se, but it's a basin that will allow water to backup into it and sit there whenever the creek is in backwater and you're not having a positive release out into Crawford Brandeis Ditch. That happens sometimes annually, sometimes every two or three years. The actual controlled release is in the lower left-hand corner. It's also shaded in blue and it's designed to hold and release the required volume of storm water runoff into Crawford Brandeis extension which I have shaded in yellow the actual channel. The area shaded in orange would be the 35 feet from the top of the bank or 30 feet from the top of the bank that will be required for our maintenance machinery to operate effective mowing operations of that ditch. It coincides, incidentally, with a sewer easement that is recorded on a certain book and page in the Recorder's Office and we're recommending that the Board relax the 75 foot right-of-entry along this project to a distance approximately 35 feet from the top of the bank, but its easternmost boundary should coincide exactly with the sewer easement that is a recorded document and that is where the description of it could be found. Everything else is in compliance with the preliminary plan and your only additional action would be to reduce the 75 foot right-of-entry down to approximately 35 feet or to coincide with the sewer easement and then after the APC hearing we'll see the final details of this plan.

Commissioner Jerrel: I would like to move approval of the MJM Industrial Park preliminary drainage plan.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Blue Claims

President Mourdock: Other business? Anyone rushing to the microphone? No, I didn't think so.

Commissioner Tuley: Be rushing for the door.

President Mourdock: Any other business, Bill, that you know of before we go to claims?

Bill Jeffers: Just claims unless there is someone here to speak.

President Mourdock: Nope.

Commissioner Tuley: I'll move approval of the claims if you've already signed off on

them.

Bill Jeffers: All the paperwork is here, the work has been done. It looks like it still requires a signature which I'll apply before I hand it to...before she takes it from the room. There may be a question by the Auditor, so I want to clear that up right away. What happened was Big Creek Drainage Association is the primary contractor on a silt dipping project that was approved on Pond Flat Main and the bid was for \$2,295 and the subcontractor was named as Blankenberger and they ran into...Blankenberger Brothers. They ran into some field conditions that required additional work and what you'll see from Big Creek Drainage Association is a bill that was sent to them from Blankenberger for \$3,483 which is in excess by almost...well, a little over \$1,200 of the bid. We are paying them the bid price and they are paying the additional \$1,212 out of their surplus account because it was at their direction that they exceeded the bid and it was agreed upon between them that they would pay the additional.

President Mourdock: Okay.

Bill Jeffers: That's the only discrepancy.

Commissioner Jerrel: You moved approval and I'll second.

President Mourdock: Okay, a motion to approve and the second of the blue claims received and the last thing we have is a series of the 1998 Regulated Drain Maintenance Contracts. Is there a motion for approval?

Commissioner Jerrel: I would move approval of those contracts.

Commissioner Tuley: Second.

President Mourdock: So ordered. Any other business this evening?

Commissioner Tuley: So move to adjourn.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

The meeting was adjourned at 8:00 p.m.

Those in attendance:

Richard E. Mourdock

Betty Lou Jerrel

Patrick Tuley

Joe Harrison, Jr.

Charlene Timmons

Bill Jeffers

Jerry Lamb

Others unidentified

Members of the media

Drainage Board

Richard E. Mourdock, President

Betty Lou Jerrel, Vice President

Patrick Tuley, Member

**Vanderburgh County
Special Drainage Board Meeting
July 20, 1998**

President Mourdock: We'll call to order the Special Drainage Board meeting of July 20, 1998. This meeting was called at the time of our at last Drainage Board meeting specifically to deal with the issue of the Nickolick drainage obstruction petition and I understand the Surveyor's Office may have some new information regarding the same.

Bill Jeffers: Right, I spoke with Mr. Joe Nickolick this afternoon as well as a representative from Motel 6 and both of those men confirmed that they will be meeting in the field at 11:00 a.m. tomorrow morning with a contractor to look at the site and work out some details of removing the obstruction cooperatively between the petitioner, Mr. Nickolick, and the respondent, Motel 6 Limited Partnership, which led to Mr. Nickolick wishing us to convey to you his desire to continue the hearing until a later date if a hearing is needed after they work on the details tomorrow. Hopefully, they'll resolve the issue and a hearing may not be needed, but it would be our proposal just to continue it until a later date and we'll keep you informed as to whether it will be needed or not.

President Mourdock: Okay.

Commissioner Jerrel: So then it's appropriate, I'll make a motion that the hearing be continued for the Nickolick complaint.

President Mourdock: I will say second and so ordered. Just for the record, in attendance this evening are Bill Jeffers, from the County Surveyor's Office, Jeff Ahlers, who is working as County Attorney for this Board; Drainage Board Member Bettye Lou Jerrel; Richard Mourdock; and Recording Secretary, Charlene Timmons. Any other issues before the Board this evening?

Commissioner Jerrel: I'll move to adjourn.

President Mourdock: Motion to adjournment. I will say second and so ordered.

The meeting was adjourned at 6:19 p.m.

Those in attendance:

Richard E. Mourdock

Bettye Lou Jerrel

Jeff Ahlers

Charlene Timmons

Bill Jeffers

Members of the media

Others unidentified

**Vanderburgh County
Drainage Board**

Richard E. Mourdock, President

Bettye Lou Jerrel, Vice President

**Vanderburgh County
Drainage Board Meeting
July 27, 1998**

President Mourdock: I'd like to call the July 27, 1998 meeting of the Vanderburgh County Drainage Board to order.

Introductions

President Mourdock: By way of introductions, at the far right is the County Attorney, Joe Harrison, Jr. The Drainage Board is made up of the County Commission which is to say, Commissioner Pat Tuley; Commissioner Bettye Lou Jerrel; and myself, Richard Mourdock; and our Recording Secretary is Charlene Timmons. The Drainage Board works from an agenda which is over on the far table. The Deputy Surveyor, Bill Jeffers, generally kind of chairs the meeting in a sense. A couple of matters, Bill, just to clarify. We had a couple of questions before we were ready to get started here. One is regarding a project off Jobs Lane, has that been withdrawn, do you know?

Bill Jeffers: That would be--

President Mourdock: Eagle Plaza, I think I heard John Stoll...I'm sorry, it's a Hahn Development.

Bill Jeffers: Uh-huh. I have it on the agenda as Lloyd and Red Bank Commercial Center.

President Mourdock: Okay, alright, so it is on here then and we'll deal with that under the preliminary drainage plans.

Bill Jeffers: They apparently picked a name after they submitted the drainage plans.

President Mourdock: Okay, well we had some folks here who received notice for it and they couldn't...in the cover letter they received notifying them of tonight's meeting they couldn't find an adjacent or similar item listed on the agenda, but it's there and it's just got a different name.

Approval of minutes

President Mourdock: Okay, first thing for our business then we have two sets of minutes to approve. First of all we had our regular drainage meeting a month ago on June 22, 1998 and those minutes are submitted. Is there a motion for approval?

Commissioner Jerrel: I'll move approval.

Commissioner Tuley: Second.

President Mourdock: So ordered. And last week on July 20th we had a special Drainage Board meeting. Is there a motion for approval?

Commissioner Jerrel: I move approval.

President Mourdock: I will second since Commissioner Tuley was not able to be here last week.

Update - Rasche petition

President Mourdock: Okay, old business then the first item is an update from the Surveyor's Office on the Catherine Rasche petition and obstruction issue.

Bill Jeffers: Okay, I've given you a crib sheet of what I intend to discuss tonight. That's item II-A on the agenda, Catherine Rasche order to remove an obstruction. The comments for our office are that Catherine Rasche has offered her property at 20 West Mill Road for sale. The property for sale includes the obstruction of the drain ordered removed by your Board. Your order was upheld by the court. Our concern is that the order to remove the obstruction be attached to the property so it carries forward by title to succeeding owners.

President Mourdock: Okay, as a legal issue, Joe, is that something we do by way of a lien or how is that done?

Joe Harrison, Jr.: I've done it.

President Mourdock: Okay.

Joe Harrison, Jr.: I registered a copy of the judgement with the Clerk's Office recently. My question, though, have you had any contact with Staub? Weren't they going to go out?

Bill Jeffers: Staub still has an active work order.

Joe Harrison, Jr.: Okay.

Bill Jeffers: Their comment was that due to periodic rainfall and their direction from the owner they don't wish to muck up the area while it is wet since it is for sale. So they're waiting for the conditions to be right to go in there with heavy equipment.

Joe Harrison, Jr.: Okay, that's fine, but I recorded that. It has been a couple weeks ago, but I did record that.

John & Wanda Koch - Extension request on petition

Bill Jeffers: Item II-B is the John and Wanda Koch petition. John and Wanda Koch petitioned your Board to order the removal of an obstruction that they allege exists in a drain by 146 Lant Lane. Their petition was received by your Board on June 22, 1998. Your Board was scheduled to receive the Surveyor's report tonight and set a hearing date for the matter. Mr. & Mrs. Koch have asked that the Surveyor deliver a letter to your Board requesting you grant a 30 day extension for their petition to be heard. If the Kochs ask the Surveyor to submit his report on August 24, 1998, the next regular meeting of your Board, you still have sufficient time to set a hearing within the required 90 days from the June 22 receipt of the original petition.

President Mourdock: Okay.

Bill Jeffers: I had that letter in my possession, but I left it in the office and I will bring it and present it to your Recording Secretary to be entered into these minutes at the end of the meeting.

President Mourdock: Given that next month would still give us time to act within 90 days then, it's the Surveyor's Office recommendation that we honor the request and grant the 30 day extension?

Bill Jeffers: Yes, sir and that's our recommendation.

Commissioner Jerrel: I'll make that in the form of a motion that we grant a 30 day extension on the Koch petition.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Nickolick - Extension request of petition

Bill Jeffers: Item II-C is the Joe Nickolick petition. You will recall that Joe Nickolick last week at the appointed hearing date for his petition asked that your Board postpone the hearing to remove the obstruction he alleged exists on the property owned by M6 LP adjacent north of Nickolick's property commonly known as Sunset Drive-In. Mr. Nickolick asked for the extension of the hearing so that he could resolve the issue without an order from your Board if possible. Mr. Nickolick informed me today on the telephone that he met with representatives from M6 LP on June 16, 1998 and that Floyd Staub, an excavating contractor, is meeting with SIGECO today to negotiate the clearing of the drainage way in addition to what Motel 6 tentatively has agreed to. SIGECO apparently owns some ground that they are saying they'll help Mr. Nickolick clear. Mr. Nickolick expressed his satisfaction with the situation so far, but confirmed he may wish to reinstate his petition should the private attempt to resolve the problem fail. The Nickolick petition was filed on May 27, 1998 and presented to your Board June 1st. Our report was filed with you June 22, and August 24th will be 89 days from the May 27th filing and August 24th is your next meeting date.

Commissioner Jerrel: So we have no action to take tonight? We'll just wait?

Bill Jeffers: Right, that is just an update. You may wish to say tonight that there will be a hearing at your next regular meeting just to cover yourself and if there is not a necessity for it I will note that on the agenda.

President Mourdock: Okay, is there a motion then that we just look at this matter as a continuance for next month?

Commissioner Jerrel: Yes, I will move that we continue the Joe Nickolick petition until the August meeting.

Commissioner Tuley: Second.

President Mourdock: So ordered.

**Woodward Realty - Request right-of-entry relaxation for Kelly
Ditch**

Bill Jeffers: The next item, II-D, is Woodward's request to relax the right-of-entry for Kelly Ditch. There is substantial construction activity currently underway within and

directly adjacent to the Burkhardt Crossing Commercial Subdivision which is the site of the request by Mr. Woodward to relax the right-of-entry for Kelly Ditch. The County Surveyor requires additional time to determine an appropriate width for the right-of-entry along the south bank of Kelly Ditch at this site. A recent inspection of the site revealed the need to dress up the south bank of Kelly Ditch and we need an area within which we will work and deposit spoil during this project. For the benefit of the developer in his endeavor to sell this property, the Surveyor is willing to say at this time that we anticipate recommending a relaxation of the right-of-entry along the south bank of Kelly Ditch between the east right-of-way of Burkhardt Road and the west right-of-way of I-164 to a maximum distance of 50 feet and possibly to a lesser width, but only after we've had the opportunity to examine the need for ditch repairs after work associated with the reconstruction of Crawford Brandeis Ditch. Basically, I'm saying it is just a big mess out there and we want to get a closer look at it and make sure we don't inhibit our ability to repair and maintain the ditch after everything is done.

Commissioner Jerrel: But there needs to be an official motion to relax?

Bill Jeffers: Not at this time. We're just wanting it in the record when Mr. Woodward would like to sell a lot this is going to be relaxed from 75 to 50 feet at least, possibly 35 if we can work within 35, but he is already selling lots. There is a Dog N' Suds proposed on one lot and we would just like to be able to say to people, yes, there will not be a 75 foot there will be a 50 foot or less. Most likely not less than 35 feet.

President Mourdock: But you're not comfortable in going forward doing that?

Bill Jeffers: Not at this time.

Commissioner Jerrel: So this is another information item.

Bill Jeffers: Right.

President Mourdock: Yeah.

**George Carl and Linda Gayle Riecken
Request to locate sign alongside a regulated drain**

Bill Jeffers: The next item is the request by Carl and Linda Riecken, I believe, to locate a sign on the south bank of Hirsch Ditch on property they own in front of their commercial establishment on Oak Grove Road. I believe it's 5115 Oak Grove. You instructed me at the last meeting to prepare a document modeled after a document that your counsel, Mr. Joe Harrison, Jr., forwarded to me and we have prepared that document and presented it at this time for your signature. Mr. and Mrs. Riecken have already signed it and agree with the terms of it. There are two copies on your desk, one for your Recording Secretary and one for me to return to Mr. and Mrs. Riecken by mail.

President Mourdock: Did I understand, Bill, you said this was prepared by our attorney?

Bill Jeffers: I prepared it and forwarded it to your attorney for his approval of the form.

Joe Harrison, Jr.: It looks fine.

Bill Jeffers: The only thing I noticed that I left out, before you make a motion, is when I say an emergency, under conditions of an emergency, I would like to point out that I am contemplating the emergencies described in Drainage Statutes 36-9-27 esq. It says what an emergency is under the statute.

Commissioner Jerrel: There is one other thing with names not spelled correctly.

Bill Jeffers: Riecken? R-e-i or is it R-i-e?

Joe Harrison, Jr.: Bettye Lou's name.

Commissioner Jerrel: There is a C in it. You left the C out of it.

Joe Harrison, Jr.: Oh, I guess Bettye Lou is correct.

Bill Jeffers: Oh, you're right, okay. I hope they signed their name correctly.

President Mourdock: They did, yeah.

Commissioner Jerrel: Well, she's the only one you could read.

Commissioner Tuley: Read it.

Commissioner Jerrel: You can't read his, but she put it in.

Bill Jeffers: Okay, I'll go through there and--

Commissioner Jerrel: White it out.

Bill Jeffers: --white it out. Well, I'll just scratch through and type over the top.

Commissioner Jerrel: Okay.

President Mourdock: We need a motion then.

Commissioner Jerrel: I would approve the agreement to locate a sign alongside a regulated drain as proposed and recommended by Mr. Jeffers.

Commissioner Tuley: Second.

Bill Jeffers: There is a signature line...excuse me, I'm sorry.

President Mourdock: Yeah, there is a motion and a second, so I will say so ordered.

Bill Jeffers: There is a signature line for each of the Commissioners and Mr. Harrison and the Auditor as well.

Commissioner Jerrel: Okay.

Bill Jeffers: And then I'll make that correction you noted.

Bridge plans - Seminary Road

Bill Jeffers: The next subject is III-A, a new bridge on Seminary Road. The Vanderburgh County Surveyor's Office has reviewed the plans submitted by the County Engineer for the replacement of a bridge carrying Seminary Road over Cypressdale Ditch and recommends the Drainage Board approve those plans.

President Mourdock: I would hope we have a motion for this one, is there a motion?

Commissioner Jerrel: Um--

Bill Jeffers: Those are the same plans you just saw in a previous meeting.

Commissioner Jerrel: Right.

President Mourdock: That's why I hope we have the motion!

Commissioner Jerrel: I would move approval of the plan to replace the bridge on Seminary Road.

Commissioner Tuley: Second.

President Mourdock: So ordered.

**Ruben and Jeanne Delgado - 8420 King George Road
Request to install pipe in open ditch**

Bill Jeffers: The next item is III-B, a request by Mr. and Mrs. Delgado to pipe an open ditch on their property. I anticipate they're here in the audience. Prior to their presentation I would say that the Surveyor does not recommend the piping of the ditch at this time. Our reluctance to recommend the piping of the ditch is based upon field conditions we feel represent a flood peril to an adjacent home. The basis of our reluctance to recommend the project has been explained to the Delgados previously. I apologize for some of the misspellings in here. My E key is acting up on my keyboard, it's got some dust underneath it or something. It just goes crazy. Sometimes it will be several E's in row.

President Mourdock: Okay. Any comments regarding this? Please, and please state your name and all at the microphone.

Jeanne Delgado: My name is Jeanne Delgado and I've got a copy of an outline of our street that I would like to show you.

President Mourdock: Sure.

Jeanne Delgado: I didn't bring copies of this. This is our house, Lot 25. This is the neighbor's house across the street. There is the existing roadway. When this subdivision was designed originally it was supposed to be a dead-end street. The pipe underneath the street is not the right pipe. When they extended the roadway they kept the wrong pipe under there. Our property does go on the other side of the ditch. Our neighbors, on Lot 26, came in front of you and have the same problems we are having and undergoing and got the approval to bury their pipe. They did bury it, they have no

more troubles. The neighbors do not have any water standing in their yard which there is another subdivision called Fox Hollow on the other side of Edinborough here. That house is okay and so is the Heard's house which is Lot 26 here. There is no water standing. Our neighbor next to us on King George Road, we had discussed with them about maybe burying a pipe there. They have no problem with it.

Commissioner Jerrel: What happens here?

Jeanne Delgado: There is a swale that comes back and there is a reservoir pond behind the two houses back here. We had talked to the Heards about burying our pipe and they also had no problem with it. I have brought a tape in, I don't know if you would like to see that now, of the problems we're having because we're having a lot of erosion problems.

President Mourdock: Before we do that let's just discuss this here.

Jeanne Delgado: I also brought in another letter that I got back in February, a copy, and this came from the Engineering Department and it is dated February 12, 1998. They had sent somebody out, he took a lot of pictures of it. Tom Goodman, he said that he understood the problems we're going through. He said we shouldn't have to put up with it from year to year and there is supposed to be a work order in. I called the office and I asked them if there was a work order in. They kept on transferring me to different people and finally I got hold of some guy, he didn't tell me who it was, he said he finally got the right person. He said I will come out personally and take a look at it and get back with you. They never did.

Commissioner Jerrel: That's the Garage. That request went to the Garage and I know the last conversation we had it was because there had been so much rain.

Jeanne Delgado: Right.

Commissioner Jerrel: And nobody could get back in there. Now I can retrace those steps because I kept notes and tell you who that was turned over to, so I can find out the person at the garage.

Jeanne Delgado: Okay. This has been going on for almost four years now. Every time we've had people out there from day one, we had Mr. Higgins out there, Mr. Jeffers was out there, Mr. Wathen was out there, all at the same time. They all looked at it. Wathen walked all the way down the ditch and he could see where the erosion was. They say, well, try burying your downspouts and your sump pump. My air conditioning unit, all the water is piped into our ditch now. We've reseeded and reseeded and we just keep putting more money in that ditch. It is eating underneath our sidewalk, the dirt out, from it raining. I have two kids plus our neighbors have got four and I don't need them falling back there and anybody getting hurt with the sidewalk giving way. We've asked to either put...either they need to dig up and put a new pipe, the right pipe underneath that ditch, or we've asked that, you know, our property does go on the other side of that ditch can we please bury a pipe? We haven't seen any problems with the neighbors. Theirs has been buried for almost, I think, two years.

President Mourdock: Let's deal with that side of it for a second. I don't have a topo to work off of, Bill, but I guess I am kind of mystified. It does appear, and from what Ms. Delgado just told us, on the adjacent property the pipe is in and there hasn't been any flooding problem?

Bill Jeffers: Associated with that?

President Mourdock: Yeah, that's my assumption. I see in the County Engineer's letter they talk about if, in fact, there is a pipe put in it could result in flooding of adjacent properties or adjacent structures. How do you deal with that one? What's your response?

Bill Jeffers: The Delgados live in a subdivision that was approved under the 1986 Drainage Ordinance. Fox Hollow, Section A, was also approved under the 1986 Drainage Ordinance. Fox Hollow A is immediately west of and adjacent to their property.

President Mourdock: Is that downstream?

Bill Jeffers: It's not downstream of their ditch. Their ditch continues along the west line of their subdivision into a drainage basin which discharges into a channel south of and away from Fox Hollow not associated with Fox Hollow drainage system. The neighbors to whom they refer across the street on the south side of the street from them came in 1995 or...I believe, yeah, summer of 1995, and asked the County Highway Department if they could pipe their ditch and it came ultimately before the Drainage Board. The Drainage Board asked for a recommendation from the County Surveyor and we recommended that they use the same size pipe as was under the county road and install a swale on top of the pipe for any emergency overflow that might occur from the street inlet to which it was connected and only made the recommendation after we saw the elevation of the foundation on the lot adjacent to that property in Fox Hollow.

President Mourdock: Did that happen?

Bill Jeffers: All that happened and the house that is built adjacent to them in Fox Hollow, it's foundation is elevated sufficient not to be inundated if the water spills outside the easement along their property.

President Mourdock: The house at Fox Hollow is adjacent to the one that covered the pipe?

Bill Jeffers: Yes, sir.

President Mourdock: Okay.

Bill Jeffers: The Delgados saw how that worked for their neighbors and wish to do the same thing. I understand their desire. I would have the same desire if I were the Delgados, but during our investigation of this site, we noticed that the house adjacent to the Delgados in Fox Hollow Sub was being constructed at the time, the block foundation was being constructed, and the crawlspace entry was almost a foot lower than the pipe they wish to install and if the pipe they wish to install could not handle excessive rainfall the water backing up above their pipe would spill over at the Delgados northwest corner and cross over into Fox Hollow, run across the yard and possibly run into the crawlspace of the house in Fox Hollow adjacent to the Delgados' lot and that will not occur under the current situation with the open ditch terminating at the sidewalk. If the water were to overtop that pipe it will spill across the sidewalk into the street and not imperil the house in Fox Hollow.

President Mourdock: Are there any other buildings that are lower than that grade level that would be effected in that way? You said there is the one that is across from them

in Fox Hollow.

Bill Jeffers: The one across from them in Fox Hollow and the one across from them in their own Edinborough Subdivision are both at a higher grade than the one I'm afraid will be flooded.

President Mourdock: So there is only the one house then?

Bill Jeffers: There is only one house that I feel may be imperiled by the installation of this pipe.

President Mourdock: Right, okay.

Bill Jeffers: So what I am saying in all that is that Edinborough was approved under the previous ordinance that didn't require that she come back and petition you. Fox Hollow, Section A, was approved under the previous ordinance which doesn't require that they come back to petition you for changes to a drainage plan, however because you passed an ordinance in 1994 that requires any subsequent changes be approved by your Board it seems that the Board after that point wished all of them to come back or that people were being sent to, you know, through our office to you. We're very reluctant to approve this particular plan because we see an obvious and definite chance of flooding at least the crawlspace of that adjacent home and will not recommend the installation of that pipe for that reason.

President Mourdock: Okay.

Jeanne Delgado: I would like to say that we have talked to our neighbors in Fox Hollow, there are two houses behind us, and they had no problem with it. The property on the other side of our ditch is higher than Fox Hollow. It comes up to hold the water in there.

President Mourdock: I'm not sure which ones you spoke with. From what I understand from Mr. Jeffers there is only one that is really relevant and that's this one right here.

Jeanne Delgado: I spoke with the person right behind us and they're just almost completed building now. They were not there.

President Mourdock: Let me clarify, Bill, what I just said is the one that is relevant would be right here, is that right?

Bill Jeffers: Right here.

President Mourdock: Okay. Is there a separate one here and here?

Jeanne Delgado: No, this here--

Bill Jeffers: Oh, I'm sorry that's the street.

Jeanne Delgado: --is the street. There is a house next to the Heard's house and there is one right behind us that they're just now completing that wasn't there.

President Mourdock: Right.

Bill Jeffers: Where you have your fingers pointed, both of you, that's correct.

Jeanne Delgado: And then there is one over from them that is done.

President Mourdock: Okay, so--

Jeanne Delgado: So when he came out this house was not there, so he must be talking about the other house.

President Mourdock: No, that is not what he is saying. He is saying this is the house that is relevant. This is the one that would be below the drainage.

Bill Jeffers: I'll be more specific than that. I noticed several houses with crawlspace problems, water standing in the crawlspace at the time I went out there.

Jeanne Delgado: Can you tell us what time that was? What year?

Bill Jeffers: Subsequent to June 9, 1996.

Jeanne Delgado: Okay, that house wasn't there in '96.

Bill Jeffers: The foundation was there and it was only a block foundation with no floor joist or sill plates placed on it and I notified the builder in person, face-to-face, that he had problem and he laughed.

President Mourdock: Okay, whether the house was there then--

Jeanne Delgado: But the foundation--

President Mourdock: Let me finish, please. That doesn't matter. Whether the house was there then or whether there is a house there now doesn't matter. The only issue is will the grade of the pipe you're putting in affect crawlspace of a house that someday might be located here. The ultimate affect is that if you do this, if that house is put in there, if water backs up into it, then you will be, not from this Board, but that person would likely turn around and sue you under the same ordinance that caused us to go through these first four or five issues on our agenda tonight. There is a law that says if you cause water to back up on your property to damage someone else they can come back and sue you and force you to take that pipe back out. Now I am saying that just from the point of view of information so you understand that.

Jeanne Delgado: Okay.

President Mourdock: Now, that being the issue it comes back to what does this Board wish to do? We have the request that the pipe be put in there, that the Delgados proceed to do that and because it is, I presume, county right-of-way or do we have an easement or something?

Commissioner Tuley: By ordinance they had to come before us.

Joe Harrison, Jr.: No, apparently this is all on private property, but it does go out into the road area across the subdivision, isn't that why we were even involved to begin with?

Bill Jeffers: There may be a connection required behind the sidewalk that could possibly be within county right-of-way.

Joe Harrison, Jr.: Yeah.

Bill Jeffers: That may be why Mr. Higgins was hesitant to allow that connection because it may be within county...I would like to correct, there were some guys building the house that I talked to and they just laughed and said, well, you'll have to talk to somebody else, we don't care. I don't know that they actually were the builder holding the license.

Jeanne Delgado: I also have a tape--

President Mourdock: Well, I'm not sure the tape is the issue either. Joe.

Joe Harrison, Jr.: I think if you seriously entertain this request it might be helpful to get written permission or authorization from those neighbors that might be affected.

President Mourdock: Right.

Joe Harrison, Jr.: I think that would probably be helpful to the Board in case they wanted to act upon that.

Jeanne Delgado: We planned on having Frantz Brothers do the ditches out there and that's who we planned on using. We had them redig the ditch already once because when Higgins came out and looked at it he told the builder, which was Mike Whetstine, right then and there that he did not properly take care of the ditch. It was not seeded. It was not netted. He said you would still see signs of netting if you had done that. He said evidently you did not take care of your part, so we had to put out money then to have it redone. Since we had it redug we have had the problem of the erosion still happening and it's taking away from the banks on each side. Like I said, we did talk to all our neighbors. I can get permission from them all if that would help.

President Mourdock: Again, all doesn't matter because from what I'm hearing the Surveyor's Office say the only one that would be affected is this one. If this one is sufficiently upstream that it's not going to matter, you know, it doesn't matter to this Board if you get permission from everybody else if they're 30 foot higher, but the one that is relevant is the one who would likely sue you, not us, sue you, and that would be this person.

Jeanne Delgado: We just talked to them and were telling them we were coming here tonight.

Commissioner Tuley: The only thing that I am going to add to it is if we pursue where we are headed, I think, with this in terms of something written from that neighbor, not where you're headed, but where this discussion is headed, okay, if we get to a point that we suggest that, that we get a written statement from the neighbor, I want it included that they have read and understand what this letter says here. I want that included if we go down that avenue.

President Mourdock: Good comment.

Commissioner Tuley: Because John, as the Engineer, is saying he doesn't recommend that we do this.

Jeanne Delgado: I can show them the letter and have them sign the letter if that would help.

Commissioner Jerrel: Why don't you do that?

Jeanne Delgado: Take the copy of the letter?

Commissioner Jerrel: The copy and let them know what these issues are and what Mr. Jeffers has recommended or concurs with Mr. Stoll.

Commissioner Tuley: Legal...he has more stuff he would like.

Joe Harrison, Jr.: Well, in addition just I would want some waiver or release holding the county harmless from any adverse affect upon their property that could result from the piping of that ditch. That would have to notarized by the owners of that property. Do you understand what I am saying? Hold us harmless because this Board if they would ever approve that, that would be a decision made by this Board which could be used against us at some point down the road.

Jeanne Delgado: With the sidewalk...the erosion, it is all eating out the dirt from the sidewalk and that was one of our main concerns if that starts to cave in who is liable for that and it's been like that.

Commissioner Jerrel: How about your builder? Did he--

Jeanne Delgado: No, Mike Whetstine does not volunteer anything. If anybody knows Mike Whetstine, but we've had people taking pictures of how bad it is ate out behind this around the pipe and underneath that side. We're afraid that is going to give way and some kid is going to get hurt riding their bicycle or whatever on there.

President Mourdock: Just understand the concern fully and as Joe is saying, yeah, the county needs some hold harmless language, but the thing you need to be thinking of as well is if you're the person who is building that house, wherever it went on the map, and if they give you all that permission and everything is fine and wonderful, if they sign this agreement what happens then when they sell the house and move out. I mean, all that type of thing is going to have to be looked after because I'll make a prediction that if you do this that some day somebody is going to come back and sue, so you just need to be aware of that.

Joe Harrison, Jr.: That's correct. This would have to be binding upon the property and we would ask that this be recorded. It would be a miscellaneous recording in the Recorder's Office, so anyone who searches that property would find out in a title search that the owners of that property consent to the pipe it if ever comes to happen.

Jeanne Delgado: The pipe that is underneath the street, and originally ours was supposed to be a dead-end street, why they did not put the appropriate pipe underneath there, they left the old pipe?

Commissioner Jerrel: Who put the pipe in?

Jeanne Delgado: Mr. Higgins looked at that, too, and he told Mike Whetstine, he said this is the wrong pipe. He said, well, originally it was supposed to be a dead-end street. But why did they not correct that error and mistake then and maybe we all wouldn't have this problem with our ditch out there?

Commissioner Jerrel: Do you know anything about that?

Bill Jeffers: I think what happened was that road was constructed in, this is just from memory so it might not be totally correct, but Edinborough was constructed mid to late '80's I suppose off of a road that was constructed by Gary Williams to access McCutchanville Estates and the Effingers still own the property that is now Edinborough Estates and they said we will have some curb cuts here and here for any future development. The street that has the pipe underneath it that Ms. Delgado is referring to was contemplated at that time and then Whetstine came in and built Edinborough and dead-ended the street at the west line of Ms. Delgado's property and subsequently Bussing Kattman came in and developed Fox Hollow and to match the street grade so there wouldn't...so that they would blend at the common subdivision line they lowered the street grade over top of that pipe and a smaller pipe had to be installed then was previously planned. Now this is from memory. In other words, the pipe wasn't there yet, it was just an open ditch that continued to cross the street and when they had to lower the street grade they couldn't get say a 24 inch pipe or 15 or whatever they put, maybe a 12 or 15 something like that, was somewhat smaller than what some people feel would have been a sufficient pipe. I'm not saying it was undersized. I'm saying that some people feel it required a larger pipe. A smaller one was put in to accomplish the new street grade so that it would blend into Fox Hollow. That may be what Ms. Delgado is referring to, the comment from Mr. Higgins.

Commissioner Jerrel: So this was done by the developer?

Bill Jeffers: All this was done by both developers.

Commissioner Jerrel: Both developers. We're trying to get a problem corrected. You want to give that a try?

Bill Jeffers: The streets were subsequently accepted by the county and, of course, some of the problem Ms. Delgado was referring to behind the sidewalk and under the street would be the County Highway Department's responsibility to repair should the sidewalk be undermined or the pipe be damaged, the existing pipe.

President Mourdock: Well, the state of the situation, the facts being what they are, I think this Board is saying that if those types of provisions that the County Attorney mentioned are taken care of they would at least consider dealing with this.

Commissioner Jerrel: Right.

Commissioner Tuley: Yeah.

President Mourdock: But until that point I also get the sense from the Board that they are hard pressed to go against the technical advice that we get from both the Surveyor's Office and the County Engineer's Office. If you would like to see if you can pull that other information together we would be inclined to take another shot at it.

Jeanne Delgado: I can be put on the agenda for next month?

Commissioner Jerrel: Certainly.

President Mourdock: Okay. If you have any questions as far as what you need to work with with your neighbor, please call the County Attorney. I mean, I don't want you to come back in here a month from now or two months from now with a list of things and not have that list complete. I don't want you running back and forth to here. You don't

want to do that either, I'm sure.

Commissioner Jerrel: There you go.

Jeanne Delgado: Thank you.

President Mourdock: Okay, thank you.

MJM Industrial Park - Final drainage plan

President Mourdock: Next item on the agenda then, unless you've got a different agenda, Bill, is the final drainage plan for MJM, is that right?

Bill Jeffers: Yep. Approval of the final drainage plan for MJM Industrial Park, which you saw the preliminary plan last month. The preliminary plan was essentially in its final form. I have color coded the two details that I asked for to upgrade it to a final plan. The approval of the final plan for MJM Industrial Park requires the Board to grant a relaxation of the right-of-entry for Crawford Brandeis extension to a width shown on the plan drawings as coinciding with the easternmost line of a 30 foot wide sanitary sewer easement marked in red on your plan. The sewer easement is recorded in Deed Record 676 on Page 467 in the Office of the Recorder of Vanderburgh County, Indiana. The engineer for MJM Industrial Park, Keith Poff, has submitted a legal description of the proposed remaining right-of-entry and you can see that legal description on the page below that is titled Urban Drain Easement by Mr. Poff and it gives a description of what I have marked in red of everything between there and the ditch. In addition, details are given on the drawings for an outlet from the detention basin designed to allow our maintenance contractor sufficient access to maintain Crawford Brandeis extension along this development. The Vanderburgh County Surveyor recommends approval of the final drainage plan for MJM Industrial Subdivision including the relaxation of the right-of-entry as described along the east bank of Crawford Brandeis Ditch from Old Boonville Highway south to the south line of MJM Industrial Subdivision.

President Mourdock: Comments from the Board?

Bill Jeffers: Mr. Poff is in the audience.

Commissioner Jerrel: Are you going to take any comments first?

President Mourdock: Yeah, are there any comments from the audience regarding this particular request? I can't see anyone behind the podium, so I presume there isn't. Okay, again, comments from the Board on this? Is there a motion?

Commissioner Jerrel: I'll move final approval of the drainage plans for the MJM Industrial Park.

Commissioner Tuley: Second, along with the relaxation, I'm sorry.

President Mourdock: Okay, there was a motion and a second that included the relaxation as requested, so I will say so ordered.

Baseline Park Commercial Subdivision - Preliminary drainage plan

Bill Jeffers: This is a planimetric map of the area at Baseline.

President Mourdock: Just before you get started with this one, Bill, is this Baseline?

Commissioner Tuley: Yeah.

President Mourdock: Just a statement for the record since it seems like everyone in the world knows that I work at Koester Company, as I understand it...well, not as I understand it, but I know the owner of this is, I believe, Daniel L. Koester and perhaps several others. He is the son of the founder of Koester Company. The founder of Koester Company is no longer...well, he no longer owns Koester Company, so those who might think I have a conflict of interest in this, I do not. Danny Koester is not involved with the day-to-day operations of the Koester Company, so I just want to clarify that.

Bill Jeffers: This is item V-A, Baseline Park and it's a preliminary plan. There has been substantial concern expressed regarding the proposed Baseline Park development. The concern stems from flooding of farm ground and public roads downstream of the proposed site of the development during heavy storms in the past several years. Due to observed, documented and reported flooding in this area we requested the engineer, Mr. Jim Farney who is in the audience tonight, to submit drainage plans demonstrating how the storm water runoff from Baseline Park after its development can be restricted to the flow rate of a ten year storm falling on presently undeveloped ground. So you're looking at farm ground with a runoff rate factor much lower than what it will be after it has been developed with a lot of paved surfaces and large rooftops, so we asked that he demonstrate clearly that the storage volume in the proposed detention basin for Baseline Park be calculated for both a 25 year storm and/or a 100 year storm. The detention basins in Lots 1, 2, and 3 at the upper left-hand corner of your drawing, it's in the southeast intersection corner...southeast corner of the intersection of Baseline and 41. The engineer did show us the storage volumes and the elevation of the stored water in the basin for both the 25 year storm and the 100 year storm collected, detained and then released at a ten year predevelopment rate of flow. The stored elevation for the 100 year event required an emergency overflow spillway with an elevation of 442 ½ feet above sea level. That spillway will discharge storm water directly into the state highway right-of-way at the southeast corner of the intersection of US 41 and Baseline. Therefore, it requires Indiana Department of Transportation approval for the discharge into a state right-of-way. You'll note that the pavement elevation on the contour map next to the gavel shows the pavement at the intersection has an elevation of approximately 442.8 feet above sea level, or for all practical purposes the same as the spillway elevation. We have a lot of information submitted to us in the calculations and we've reviewed all of that, but before we are ready to make a recommendation the Board may wish to hear comments from persons present tonight in your audience with regard to this proposed development.

President Mourdock: Okay, anyone wishing to address this issue? Yes, sir. Please state your name and address.

Richard Bengert: My name is Richard Bengert, 510 East Baseline Road. We're directly north of this project right across the roadway.

Rebecca Bengert: My name is Rebecca Bengert and I live at 15945 Boyle Lane. Boyle Lane is right across the road from the Baseline project.

Richard Bengert: We are experiencing problems now with the water situation running off the fields and the ditch is not holding it properly and it dumps it across on us.

President Mourdock: Would you come up here, both of you, and point to where your houses are please? That would be helpful. You can mark on the map if you want.

Richard Bengert: This might explain what it looks like whenever it floods us out.

President Mourdock: Where are your houses here?

Rebecca Bengert: Right, Boyle Lane. I'm approximately here.

Richard Bengert: One of these will show the flow rate--

President Mourdock: This is--

Richard Bengert: --so you're getting a lot of water when it comes out like that.

President Mourdock: Wait a minute. Mr. Bengert, where are you here, please? Here is 41, here is Baseline.

Richard Bengert: I own this section right in here and then my boy owns this section right in here.

President Mourdock: Just a second. You said you're up here?

Rebecca Bengert: No, I'm down here.

Richard Bengert: Right here. Right there.

President Mourdock: Okay, so you're both right in this area.

Richard Bengert: Yeah, right.

Bill Jeffers: This is the camper/trailer--

Rebecca Bengert: Right, we're right directly across the street from that.

President Mourdock: Okay.

Richard Bengert: The way it is now there is not enough ditch over here and there is a culvert under the road here and whenever this field, the runoff, it should take a fair amount on that side and displace it either down to this small creek down here or down here where that large tile is across the road over here. Well, it hasn't been doing it so I've only been out there ten years and eventually I got through to somebody there at the county and they said they would run somebody out, so a couple of months ago they come out here and dug part of it out, but the way it's dug out it still shovels it right to it rather than get rid of it and whenever it comes down here and rains it just floods it. Now, if we have a development here and supposedly, supposedly, the roadway leading into it will be directly across from us here and it would almost be like a chute coming

down there and you're going to get a bad situation there.

President Mourdock: Bill, would you come here and clarify something? As projected all of this drainage will come to here and then go under and go north, is that right? You're not putting water back under Boyle Lane, correct? All the water is staying on the south side of Baseline to the intersection of 41, then goes under Baseline and goes back north, is that right? Mr. Farney.

Jim Farney: The water is going to go...everything goes through the lake. Show me where the concern is.

Commissioner Jerrel: It's right here.

Jim Farney: Okay, there will be a storm sewer that will be put in at this point in the roadside ditch that comes down and the storm sewer will pick up the runoff and be routed in this storm sewer and into this lake and then after it goes into the lake then it will be allowed to exit at this point. At this point this is in direct alignment with the big culvert that is underneath 41 that's located right there.

President Mourdock: So it goes under 41, not under Baseline?

Richard Bengert: What about the culvert right here that goes underneath the road? How much water will be directed...now, we can stand a fair amount, but the thing of it is the way it is now it just dumps it on us. It's a flood.

Jim Farney: Yeah, the basin is designed that it should take on all the water from the ridge. The ridge...the high ground is coming through here, so the water that is in here, that's in the roadside ditch, will be routed through the lake, so in essence if that really is a significant problem we can either reduce the size of that pipe or we can effectively get rid of it.

President Mourdock: The pipe that you're asking about though, Mr. Bengert, is that a pipe underneath Baseline?

Richard Bengert: Yes, yes.

President Mourdock: Is that what you're saying you're replacing?

Commissioner Tuley: This pipe.

Rebecca Bengert: No, that's my own personal under my driveway.

Richard Bengert: That's ours because I asked the county if they could do anything about it and they said no, it's private property.

President Mourdock: Right.

Richard Bengert: But I don't think that you...well, you would probably know. You can't just dump water on people, correct?

Jim Farney: Right.

Rebecca Bengert: This has happened every year since we've been there and it's been

four years now. Every time we get a big heavy rain I've got a lake out in my side yard.

President Mourdock: I want to clarify, Mr. Farney, you said something about changing the size of the pipe. Which pipe are you talking about when you said that?

Jim Farney: The pipe that he is concerned about that goes under Boyle Lane. Am I seeing Baseline--

Rebecca Bengert: No, this Boyle Lane. That's right off Boyle Lane.

President Mourdock: Time out. We're talking about two different things. The pictures are about Boyle.

Rebecca Bengert: Boyle Lane.

Richard Bengert: Actually,--

President Mourdock: Wait a minute, please. The question I asked, the pipe that is underneath Baseline--

Jim Farney: Right.

President Mourdock: --you said you would deal with that pipe and possibly change the size of that pipe?

Jim Farney: We can reduce the size of that pipe if it's a concern.

President Mourdock: Okay.

Jim Farney: We're going to route the water that's in this roadside ditch into the lake, okay. Now, I would like to ask a question. These pictures are all Boyle Lane. Has anybody seen the water actually go over Baseline at this point or does the pipe handle it?

Richard Bengert: No, it doesn't go over there. It goes over further down on Baseline.

President Mourdock: Further east?

Richard Bengert: But Every time it floods down there further--

(Several inaudible conversations)

Unidentified: The trouble of it is they keep putting these retainer ponds in, but when they're full what good are they doing?

Joe Harrison, Jr.: Hang on a second.

Unidentified: Where is the water going to go? All it is going to do is slow it down.

Commissioner Jerrel: Do you want to--

Joe Harrison, Jr.: Hang on, sir.

Bill Jeffers: Let's back up. I was asked by Commissioner Jerrel to look at this plan with a keen eye towards what affect it would have on county roads, specifically Baseline and Boyle, because those were the concerns expressed to her from the public and after...I mean, as soon as I opened the book on page three it said all runoff from paved areas and rooftops constructed on all the lots and a portion of the Steckler property west of the existing ridge will be routed through the basin. In addition, the runoff from the public roadways will be routed through the basin and I asked Mr. Farney to be here tonight to clarify what he meant by that because I knew he didn't mean bringing the water from the public roadway on the north side of Baseline back through his development. I figured he meant the water from the adjacent ditch along his north line and he has said that. Then I also asked him today, this morning about 10:00 or 10:30, I called him and I said now I have an additional concern. I want to know what the anticipated highest flow of water will be over that spillway into US 41 and where it will go? In other words, will it go directly north across Baseline along the east side of 41 by the RV sales property or will it cross over and go towards Mr. Rexing's farm and find its way into Pond Flat B? In other words, will it go to Pond Flat A, which is the source of concern for the gentleman back here, or will it go to Pond Flat B, which would be the source of concern for the Rexing family? So I guess that will be the next thing he addresses, but he has already shown you that the water from within the subdivision I didn't even anticipate that he would take all the grassy...all the water off the grassy areas, but he has shown you that he is going to all along his north line and run the water through the basin and discharge it from the basin into the right-of-way of US 41 and apparently has offered to either restrict or close the pipe that crosses over onto this man's property. I hate to see us get into a discussion of a flooding problem that is like three quarters of a mile east of here and not associated with this project before we settle these issues here.

President Mourdock: I think in the first part of that, Bill, I heard you ask a question and I'm not sure that Mr. Farney has answered it. You asked, and I may have misunderstood it, but did you ask at what elevation the water will be when it leaves that pond out there on the northwest corner?

Bill Jeffers: Right, he is showing a spillway elevation in the notch, the dirt notch, at 442.5, but obviously as the water crests that the water will have the depth of at least six inches as it comes out of there so now you're at 443. I would like to know where will that go into the INDOT right-of-way and once it is in the highway right-of-way for US 41 then where will it go? Right at the point where your fingers are at.

Commissioner Jerrel: It's 438 right there.

President Mourdock: But this is 442.8 and you're saying that water--

Bill Jeffers: That's the pavement though.

President Mourdock: Right.

Bill Jeffers: It's got to get underneath the pavement.

Jim Farney: It's all along Baseline.

Bill Jeffers: We're getting into something now that's more of a final plan, but I went ahead and asked him for it. You've got a huge elliptical pipe.

Richard Bengert: Is there any way...we can have the water on our side of the road,

we're not worried about that. It's everything on the other side of the road that spills on us.

Rebecca Bengert: Especially the four little kids that want to get out there and play in it and all that.

President Mourdock: We'll come back to your question in just a second, Mr. Bengert.

Bill Jeffers: In response to what I asked Mr. Farney this morning and only gave him, you know, eight hours to bring it was here is the pond on Lot 1. This is 41, US 41, and the northbound lane. This is the southbound lane. Here is his release structure from the pond. This is the water coming in from the ditch across the street from you. It comes into the pond here, comes back out through the spillway and directly into an 83 inch by 54 inch elliptical pipe underneath US 41 that discharges over here at Azteca's corner inside of your service road area which would be right. Excuse me, right here inside that Azteca service road grassy area. Okay, what Mr. Farney then said when we were just speaking here a moment ago is that this elliptical pipe for some reason, as large as it is, 83 inch by 54 inch, which is what five feet...well, four and a half by eight, if that were to become obstructed for some reason the water would then crest over under an emergency situation at elevation 442 almost 443 right here and it would travel north along the west boundary of the RV sales center down into Pond Flat A instead, but that would be under an extreme emergency situation. Heavy flooding or an obstructed pipe.

Commissioner Jerrel: What about down here where it comes across into that area? What's going to happen to it over there?

Bill Jeffers: Okay, we're going to have to trace that across the front of Azteca.

Jim Farney: It goes right across Baseline almost right here.

President Mourdock: That was just put in when the county redid that road as part of Azteca.

Jim Farney: You redid the road, but I'm not sure what modifications they made.

President Mourdock: That's a pretty large pipe in there, too.

Bill Jeffers: The narrative kind of wasn't quite clear on that, but I'm sure--

Richard Bengert: Because none of the water north of there goes across.

Bill Jeffers: No, it would continue to go north, but he is offering to take the water on the south side of the road in front of his project that does cross over onto you and run it through this basin so it is stored for a period of time.

President Mourdock: It keeps it south of Baseline so that it can be discharged to the west under 41. Mr. Bengert asked the question a minute ago and maybe you just had an answer, I'm not sure. You said something about possibly closing a pipe that goes under Baseline?

Richard Bengert: Right, in other words if they could keep it all on their side we can handle whatever is on our side.

President Mourdock: Okay, well your plan is keeping it all on the south side now, is it not?

Jim Farney: Our plan was to route the water that falls on any of the lots that front on Baseline through the lake.

Richard Bengert: So in other words that culvert could come out?

Bill Jeffers: With the County Engineer's permission and the concurrence with these other plans, that could be a possibility.

Jim Farney: I mean, there may be somebody else in the audience that has a problem with us closing that pipe.

President Mourdock: Right.

Jim Farney: I'm just offering and I'm not suggesting this.

President Mourdock: Well, let us keep working on that one. This is a preliminary plan tonight and certainly we can get the answer to that question prior to the next time this would come before us for a final plan, so just specific to that one question regarding closing of the pipe, let us set that question aside for a minute if we can.

Richard Bengert: Well, will you keep us informed on this?

Commissioner Jerrel: Oh, yeah, because if--

Richard Bengert: Because I don't want to get to the point where I have to hire a friend of his to compound the situation.

President Mourdock: He's an attorney, he doesn't have friends!

Joe Harrison, Jr.: Thanks.

President Mourdock: Okay, well let us take questions or comments from others if you have any.

Commissioner Jerrel: Yeah, I think the others that are here--

Commissioner Tuley: I was going to say because there are some.

President Mourdock: You need to come to the microphone and state your name and address, please.

Richard Bengert: It's just a bad situation.

Jim Schmitt: My name is Jim Schmitt. I live at 17101 Korff Road. The trouble that we keep having in here, they keep directing the water and all that around this way and that way, but the thing of it is down in Pond Flat that ditch will only take so much water. Okay, you keep directing everything...when it comes to Old Princeton Road it can't go anywhere, so it's got to back up on us. It just keeps backing up. We see it every year.

Commissioner Jerrel: Can you show us where you are on this?

Commissioner Tuley: Down this way I think.

Commissioner Jerrel: You're down--

Bill Jeffers: It would probably be on this map here. I may have cut Korff Road off. I did. There is Peck Road right here, so you're up here on Korff somewhere?

Jim Schmitt: Right.

Bill Jeffers: Here is the first house on the west.

Jim Schmitt: We're the second...third house. We're up here, but we farm some ground down in here that gets flooded out all the time because--

Bill Jeffers: These are all houses right down through here.

Jim Schmitt: Oh, it's right on this side.

Bill Jeffers: Right. This is the extension of Pond Flat A right here.

Jim Schmitt: Yeah, okay.

Bill Jeffers: So you're on this side of Pond Flat A?

President Mourdock: Again, what this plan is doing is keeping all this water from here over here on the south side to make sure it doesn't flood back across on the north side and then it comes across here, goes underneath here and then would go north.

Jim Schmitt: Right, but see it's coming around. Sure that is directing all the water off of here, but when it gets down into Pond Flat that area can only take so much water.

President Mourdock: Right.

Jim Schmitt: Okay, when you get all that full everything backs up and the more industry that keeps coming up they're going to have to do something down this way to get it out.

President Mourdock: So your question isn't so much about the drainage plan then, it's about what the land use is really because the same drainage...whether this project ever happens that same drainage is going to get up there.

Jim Schmitt: Right, all this water comes down into Pond Flat.

Jim Farney: Yeah, this pond right here, it will have remarried the one that you're concerned about.

Jim Schmitt: There was some talk I heard that they was wanting to raise Old Princeton Road. Well, if they do that it's going to be worse.

Commissioner Tuley: That would really back it up.

Jim Schmitt: That's really going to be backing it up. That would be like putting a dam.

Commissioner Jerrel: That just is talk?

Jim Schmitt: Yeah. They need to figure out the more industry that keeps coming in rather than building the retaining ponds and all that which they're probably all right, but the thing of it is when they get full what are they going to hold? All they're going to do is slow the water down to an extent.

President Mourdock: That's true. That's what they're there to do. That is why they call them retainage. Okay, thank you, Mr. Schmitt.

Commissioner Tuley: Bill, you and I were talking as I was coming in tonight. Because of what we just heard, that concerns me. We're not going to maybe affect the Bengerts and some of these until we ship it all the way down and then it gets backed up back there at Pond Flat. What options do we have in terms of not so much changing our ordinance, but I forget the term you used, in certain areas where we're just--

Bill Jeffers: Your current ordinance requires that a development such as this establish the flow rate of a ten year rainfall on agricultural ground which he has done and set that as the permissible discharge rate of water from that ground. Anything over and above a ten year rainfall from the agricultural ground has to be detained in this pond that he is designing and released at the slower rate. Then he takes...your ordinance requires that the 25 year storm as it would fall on fully developed industrial ground or commercial ground such as this all that additional rainfall be stored in that basin and released at the slower rate, so it's called a 10/25 ratio and that's what we have required of everyone since 1994 at the implementation of the drainage ordinance. However, in that drainage ordinance, what Mr. Tuley and I discussed on the way into the building this afternoon, was the ordinance also acknowledges that there are areas within the county that are very sensitive to development because they are already experiencing severe problems before the development ever starts to occur and when we identify those problems areas, and our office feels that you're in one here, you can designate those impacted drainage areas under the current ordinance. You don't have to change your ordinance, it's already there. Once you declare it an impacted drainage area you can impose stricter regulations on the developer. In the case of an impacted drainage area the Surveyor's Office would recommend that a ten year storm...I mean, that a 100 year storm rather than a 25. That the 100 year rainfall would be directed into the basin, stored and released at a ten year rate. This isn't such a great deal or imposition on this particular developer because he already has to do a 50/10 to satisfy the State of Indiana Department of Transportation and a 100 year storm is really maybe only 15 percent stronger or will generate only 15 percent more water approximately than a 100 year storm. It's not double. It's intensity and rainfall per inches is what we're looking at, so he is already going to have to store a 50 year storm and release it at a ten to satisfy INDOT and if you were to declare a certain area in the North 41 corridor and we would suggest that it be, for example, from Inglefield Road north to I-164. That's the watershed area in the US 41 corridor that drains into the Pond Flat system. We all acknowledge...anyone sitting on this Board for the past ten years, anyone working in our office and all the folks that live out there know it doesn't take but about a two or two and a half inch rain to top all the banks of all the Pond Flat ditches and where this fellow is talking about Princeton Road being raised, we looked at that and we would strongly advise you not to allow that to happen. The bridge at Pond Flat is where the beavers continually erect their dams which means that's the flattest piece of ground they've found so far. Like a one foot rise...a one foot raise in the water elevation at Princeton Road will back water all the way up onto the road surface at Stacer. That's like three miles of ditch would back up and flood Stacer. Every time it rains two or two and a half inches

Princeton Road goes under immediately.

President Mourdock: All this being said, Bill, I'm confused though. The plan that you've put out before us this evening as a preliminary plan I think you're recommending as a preliminary plan, is that right?

Bill Jeffers: I wasn't ready to make a recommendation. I'll get into that later. The reason...I saw that there were people here in the audience who obviously have come forward at other hearings and expressed their concern about street flooding and property flooding and farmland flooding. They're here, I don't want to say come back next month we'll talk again. Let's hear what they have to say and everything that they've said so far is legitimate. We're going to hear some more next month because I've got calls in our office where people have said we're not ready to present a unified front on this. We still have some issues and some details to discuss and there is another group of residents who are neighbors of these folks who are coming in next month.

President Mourdock: Now I'm more confused.

Bill Jeffers: I mean, I'm going to recommend that we continue the hearing until next month, but I didn't want these folks to have made the trip for not, you know. I don't want them to take up all your time either, but so far no one other than myself has repeated themselves.

Commissioner Tuley: The thing that I'm headed for is the possibility of us considering designating this as an impact area so that we do have to have it a little tighter. You know, we can address his problem and he can handle all the water right here and this development didn't create the problem, this one didn't, but this one, this one, this one and this one is just going to make a situation worse than what they've already had to deal with.

President Mourdock: I'm not adverse to that given the point of view that this same Board...well, these three individuals who in a couple weeks will be meeting as the County Commissioners to deal with the North 41 Highway development plan where we put a set of plans together, I mean, it needs to be a total plan. So I'm not adverse to some consideration being given to that as well. I was a little confused. Normally when you bring them to us for a preliminary plan almost always you recommend them as preliminary realizing that there could be some changes.

Bill Jeffers: Well, I had to confirm something with Mr. Farney that I did not know until just five minutes ago that it has been tentatively withdrawn from APC's agenda for next week which allows us another week...another month to review it. Apparently there are other issues involved, but I mean all the infrastructure improvements that have been made along 41 since the 70's have contemplated industrial development of this corridor.

President Mourdock: Sure.

Commissioner Tuley: Sure.

Bill Jeffers: So what we need to do is respond to that with our most sensible and fair--

Commissioner Tuley: Drainage.

Bill Jeffers: --drainage--

President Mourdock: Not just on this property, but on all of them.

Commissioner Tuley: That's what I'm saying and that's what he said, an area.

Bill Jeffers: Everything from Inglefield Road north and from Princeton all the way over to Old State, that whole swath all the way up to 64, should be declared an impacted drainage area. I mean, to begin with...of course, I don't anticipate any heavy development over towards Owensville Road or Nesbitt Station or that type of thing.

President Mourdock: I guess as one member of the Board here and normally the President of the Board doesn't make the motions, but it would seem to me a motion would be appropriate for the Surveyor's Office to construct for us a map based on the watershed out there as to what acreage you feel should be in that impacted zone. I'm not sure I would agree with what you said just carte blanche from that road to that road--

Bill Jeffers: Right.

President Mourdock: --but following the watershed it might make some sense.

Bill Jeffers: Well, I'm talking about for development. In other words, any development within this certain area that area should be declared an impacted drainage area.

President Mourdock: Right.

Bill Jeffers: And I think it should coincide with whatever the Department of Metropolitan Development, APC and EUTS have designated as the North 41 corridor.

Commissioner Jerrel: It might help, Bill, if you would sometime this week talk to...you know, look at the maps that they have and I think what Richard was referring to as long as we're looking at all of it now, now is the time to designate that area and you can see where we're going and it ought to be a completed plan. We can just make the motion to continue this until such time--

Bill Jeffers: But I would like you to know that this engineer over here has responded to all my requests and it is all marked up because I was reviewing it, but he has shown you the elevation of each storm up to a 100 year storm, how much...how many cubic feet of volume would be required to be stored and what elevation that would take it to and that was in response to questions I asked.

Commissioner Jerrel: I asked the question, I appreciate that work.

President Mourdock: Okay, there is a motion for continuance of this then for a month?

Commissioner Jerrel: Yes.

Commissioner Tuley: I will second that motion.

President Mourdock: I will then say so ordered. I'll also add that from what I've just seen of Mr. Farney's plan and I think you're going to agree with this, Bill, there is really nothing in this particular plan that is particularly offensive, but you just want to see this being part of a bigger plan.

Bill Jeffers: Had there not been the concern for all the reported obvious documented

flooding and the desire of the Board to look at it as an impacted drainage area, had the developer wished to proceed to Area Plan Commission I most likely would have...I mean, I definitely would have recommended approval of the preliminary plan. However, I think this gives these folks who were here an opportunity to go back and organize with their neighbors a list of concerns that they would like to see addressed.

President Mourdock: Charlene just reminded me as well that the hearing for the formal plan of the highway development is next week.

Commissioner Jerrel: Yes, it's August 3rd. That's why I asked that he go down and take a look at those plans because they're going to present that to us August 3rd.

Bill Jeffers: I have seen them and I'm sure the folks in the audience would like to look, too. There are...there is a whole crosshatching of roads that they're proposing all through this area to serve any future industrial development between now and the year 2020.

President Mourdock: Just to clarify that, that's not to say that there is an impending network of roads about to be built. What the County Commission voted to do or what we voted to do over on Burkhardt in that area was basically to put a set of lines on the map to say that henceforth as developers come forward in the future if their plan doesn't go with the plan we've submitted we're not going to approve it because we were tired of roads coming in and meeting or not meeting. We want to see a solid plan, so the same thing is coming before us next week on North 41. It doesn't mean the road is going to be built next year or the following year or the year after that, but as development occurs it provides a logical network for the development to happen.

Unidentified: What time is that meeting?

President Mourdock: That meeting would be at 5:30 next Monday at our normal County Commission meeting.

Bill Jeffers: As a result of the plan that you spoke of out around Burkhardt Road and the orderly progression the development has taken since that period and time and the folks in the audience who are farmers with acreage could confirm by going out and talking to the Hirschs and folks like that their land it now is worth between \$75,000 and \$200,000 an acre. I know there is a sentiment among farmers to remain farmers, but at the same time when the price--

President Mourdock: Without question a plan increases property value, yeah. Mr. Farney, do you have any other comments regarding this? Okay, thank you.

Lloyd and Red Bank Commercial Center - Preliminary drainage plan

President Mourdock: Okay, the next item on the agenda is Lloyd and Red Bank Commercial Center preliminary drainage plans. Thank you all.

Bill Jeffers: This basically shows a grading plan. Outlined up here is the area that they intend to develop first with the lots right along the Lloyd Expressway and then the grading plan for the rest of the area down to the lake, the detention lake, but it's got so many lines in it basically what I did was took another one of the planimetric maps to show you

the outline of this same area down to the lake with the lake, the high bank of the lake, the low water level of the lake, the dam is in red. This is the way the property looks right now. A pipe that comes across the highway from...this is Mission Viejo, you don't see the apartments because this was done in 1990. It runs through here and down through this low valley. They're going to fill all this up with the elevation shown on this grading plan. Here is the pipe running down to the lake and you'll see about 40 feet of fill over top of that pond.

Commissioner Tuley: That's where they are going to take all that dirt they've taken out and they're going to use it to fill in this?

Bill Jeffers: All the dirt they have already taken off these hills up here is being pushed down in these valleys. What we're looking at has now been called Eagle Plaza, the designated name now. It's a Hahn development. It's a commercial development with smaller lots along the front facing...or along 62 between Red Bank and Boehne Camp and then an interior service road serving those lots and then the anchor stores will be located in the large graded out areas at the southeast and southwest corners of the development. The first thing that popped into my mind when I was reviewing this is that the 48 inch pipe that he is putting in that deep valley was going to be covered with about 40 feet or so, 35 or 40 feet, of dirt making any repair of that quite a project and I expressed that to Mr. Farney and he enlarged the easement to what, a 40 foot easement rather than 12? He went from a 12 foot easement to a 40 foot easement so that you could do that excavation, get down to the pipe. Of course, you would have to put up protection, but that gives you sufficient working area to do that work. I believe he also took the pipe specs up to a class five pipe, reinforced concrete pipe. Basically, that concurs with manufacturer's recommendation for that amount of fill. The next thing I looked at was what the...a concern with storm water backing up onto Mission Viejo because now you have a large open valley on the south side of the highway. That valley is going to be replaced with a 48 inch diameter pipe and fill and I wanted to know what affect a 100...excuse me, what affect a 100 rainstorm would have with that pipe totally blocked and that's what we're looking at now is total obstruction of the pipe plus a 100 year rainfall, would that back up into any apartments in Mission Viejo and in response to that last week Mr. Farney faxed me what would happen and it shows if the pipe were totally blocked in a two hour 100 year intensity rainstorm that would produce 2.5 acre feet of water falling between 435 and 440 feet of elevation, so he is saying it would still be ten feet more or less below the lowest floor elevation in Mission Viejo, so it would take quite a storm to inundate any apartments in Mission Viejo, so that satisfied my curiosity about that. The next thing, I had a call from a Mr. Jobe living at the end of Jobes Lane and he has a lake that was built, I believe, back in WPA times. Maybe his father or grandfather was involved in that, I'm not sure, but he was concerned about additional rainfall falling off this property and overtopping his dam and causing damage to his lake and his property. Let's see, Jobes Lane terminates up here and that is the lake that Mr. Jobe is talking about. I looked at the contour maps and saw that very little runoff from this proposed first phase of the development went to that lake. Then I looked over here at the grading plan and I saw that they planned to grade back away from the Jobe property to the interior and take all the rainfall from within the boundaries of this orange outline, which is the only phase of development that they presented to me, I suppose it is all, but at this time it is all I have to look at, and you can see the grade lines where Ms. Jerrel's finger is from there fall to the interior and then over to the lake. I was actually more concerned with them robbing water that might be required to fill his lake as opposed to throwing water over on him to overtop his dam. So I presented that scenario to Mr. Farney and he ran some calculations and he said that very little water from that area was required to keep Mr. Jobe's lake full. He had enough off-site drainage area

from other areas to fill that lake. However, Mr. Farney said if it were to occur between now and their final grading plan being implemented they would be happy to work with Mr. Jobe to turn some water out of their development into his lake if that is what it turned out he needed. However, at the present time it shows all the water within the development boundary being directed away from Mr. Jobe and into the development's detention lake.

President Mourdock: At this point, Bill, are you making a recommendation on this one?

Bill Jeffers: We're making a recommendation before you act upon you may ask if there is anyone here in the audience--

President Mourdock: I will.

Bill Jeffers: --such as Mr. Jobe. Yes, we are recommending the approval of the preliminary plan for this project.

President Mourdock: Okay, now I know there were some folks here who wished to talk to us about this one. Now is your chance.

Bill Jeffers: That's Eagle Plaza Subdivision.

William Lockard: My name is Bill Lockard. I live at 601 Jobes Lane. I've lived there almost 32 years. I'm one of the lucky people that the bulldozers, the trucks, the dump trucks and everything, they start about 5:30 in the morning and they go all day, a few times six days a week, but I do not have to get up early anymore. My main purpose in coming here tonight was to determine exactly what this committee did because we are interested in three things, the property owners there on Jobes Lane. We're interested in widening our road, we're interested in sewage and we're interested in water because we have none of those facilities now.

President Mourdock: Water meaning...?

Commissioner Tuley: City water?

William Lockard: Yeah. I have tanks.

President Mourdock: Okay.

William Lockard: So as I said, my purpose was to come to determine exactly what this Board did and as it stands now it's mainly drainage. It doesn't consider...or it doesn't appear to me right now that you're directly related to those with the exception that I thought maybe if we were asking for sewage or we were asking for water as far as drainage is concerned that might have to be put together. So that was my purpose. I came, I gave you the reasons. I thank you very much for it. This gentleman here, Bill, I think. I didn't catch his last name.

President Mourdock: Jeffers.

William Lockard: Jeffers, his comment was he didn't foresee any development from the area out there. I didn't see any development from the property that I had, too, for many years.

President Mourdock: Okay, well thank you. Your summation is quite correct. This

Board just deals with the surface water runoff type issues. We don't deal with the other water, sewer or road issues. From the county point of view, since that is out in the county, any road issue we would deal with as a County Commission we haven't had anything come up as of late in that area, at least nothing that I can recall.

Commissioner Jerrel: As County Commissioners we do deal, but not...I know it sounds like a strange animal. Right now we're sitting as a Drainage Board and that is all we can talk about is surface water. During a regular Commissioners' meeting someone...let's take your issue that you're talking about, that is a very appropriate issue for us to talk about. We would probably talk about it and recommend first of all that our Engineer take a look at the area. We would do a calculation of residencies. You may have been here earlier and heard someone mention something about a Barrett Law. We've had two or three neighborhoods that wanted sewers and that sort of issue that we've tried to deal with. We, as Commissioners, don't have a budget nearly as large as the city. To explain it, we're about a \$38 million dollar budget. The city is \$132 million, that's the difference. That doesn't eliminate us helping neighborhoods and I don't know how many people are out on Jobes Lane or what the situation is, but in Westwood Hills and Old State Road are two areas that didn't have sewers. They gathered together as a group and they asked us to help them and entered into a bond. It's a kind of a technical system that the state made available to enable the county to back the bonds, but the repayment is either by the individual based either on an assessment on their property or some of them, in the case of the ones we signed tonight, a number of people just went ahead and paid up front the amount and the sewer was installed. Now that is something you might want to think about.

William Lockard: When could we--

President Mourdock: We meet every Monday night at 5:30.

Commissioner Jerrel: Every Monday at 5:30.

President Mourdock: In this same room.

William Lockard: Well, one of the things we noticed...pardon me for not standing up, but I am going to try to write this down here.

President Mourdock: Speak loudly so we can get you on the mike there.

William Lockard: A long time ago the road on Jobes Lane was maintained by the county. As it stands now that portion that is within the county and not in the city has been let go for the past 15 or 20 years. They don't do anything. They don't grade it or nothing.

Commissioner Jerrel: Is it...is it an accepted county...well, I'm asking you. I'll ask the Engineer. Is it an accepted county road? Because it should be maintained. He is not here, but he is at our regular Commissioner meetings.

William Lockard: The only thing that I can say is that they did maintain it. Is that...?

President Mourdock: Not always.

Commissioner Jerrel: It's a good beginning, it's a clue.

President Mourdock: Yeah, that is an issue that is fully appropriate for the County

Commission meeting.

William Lockard: It is blacktop up to the top of the road and then after that it becomes gravel.

President Mourdock: Sure, okay.

Commissioner Jerrel: Mr. Lockard, could you give me your phone number.

William Lockard: It's 423-9865.

Commissioner Jerrel: Okay, well let me just say we can ask that question and identify if this is a county accepted road. They have the whole list of them up on a map and I can call and give you that information, then we can kind of proceed from there.

William Lockard: Thank you.

President Mourdock: Sir, did you have a question as well?

Unidentified: Yes.

President Mourdock: Please state your name for the record.

Dave Schroeder: My name is Dave Schroeder. I live at 617 Jobes Lane. I'm the first house going up the hill and I receive everybody's runoff whether it would be rainwater, septic problems or whatever. The roadway, I've had the County Garage out there. We have a one lane road that angles up and it changes to a one lane road. They have been out several times. They were supposed to pull the plot maps and see what kind of right-of-way they had to work with. After that nothing never got settled. I think they had a change in command and everything was just put by the wayside. We was wanting to know if they could widen it like two or three foot either way?

President Mourdock: Again, that's something we just need to deal with at the County Commission level. At our County Commission meetings we always have the County Engineering Department there and also the County Garage there. Obviously, they're not present here at the moment, but if you would like I would give you one or two recommendations. Either put it in a letter and send it to us and we'll deal with it that way or if you would like to come to any one of our meetings on Monday night at 5:30 in this same room feel free and we'll deal with it then.

Commissioner Jerrel: What is the end of Jobes...you're on Jobes Lane, too?

Dave Schroeder: Yeah.

Commissioner Jerrel: Okay, so what hundred block would you be?

David Schroeder: Six hundred block, I'm at 617.

Bill Jeffers: That would be 617 South.

Commissioner Jerrel: South Jobes, okay. I can ask that much and we can have someone call you. Do you want to give me your number, too?

Dave Schroeder: It's 422-6985.

Commissioner Jerrel: Okay, you know at least those two questions we can get that much started and then you can think about how you want to proceed from there.

Dave Schroeder: One more question. There was talk of them running Claremont...Claremont dead-ends at Red Bank, okay. There was talk through the grapevine that they was wanting to take Claremont straight through to Boehne Camp.

Commissioner Tuley: There was a question if that was a possibility or if it was feasible financially, so there has not been any plans for that, but it is something that someone has questioned and we're looking into to see if that is a possibility.

Dave Schroeder: If that was to happen they would have to put curbs and gutters in, right, and sewers for that?

Commissioner Tuley: Wouldn't necessarily have sewers, depending on who did it. If we did it, it probably wouldn't have sewers because probably all we would do is deal with the road itself.

President Mourdock: Excuse me one second. We keep our notes on a tape recorder here and we've just run out of tape, so Charlene needs to add tape.

Tape change

Dave Schroeder: If they ran Claremont straight through, put curbs in to catch the rainwater would they just try to run that towards the property?

Bill Jeffers: They would have to do a complete road study and come up with a good set of road plans before the County Engineer would ever recommend it. That's a lot of studying.

Dave Schroeder: That's what we need to find out because nobody...they just leave us in the dark.

President Mourdock: Sure.

Dave Schroeder: Every time they talk about this or that we're left to wonder.

Commissioner Tuley: How that whole discussion came about, somebody that lives on Red Bank asked me one time, just saw me out, and said is there any plan to take Claremont and extend it on through and to try keep the traffic off of Red Bank and trying to keep it off of the expressway and I threw it up in one of the meetings we had when we talked about doing the North 41 corridor and the west side and that's how it got started, quite honestly. It wasn't anything that we sat here and thought, well, that's a good idea, let's try it. It was suggested to us and we're just looking into it.

Dave Schroeder: Okay.

President Mourdock: If we got half the stuff decided we're quoted as having decided we would probably be run out of town.

Commissioner Jerrel: But I can ask those questions, you know, the simple ones. I can

call you both back and let you know on those.

Dave Schroeder: Okay, I appreciate it.

President Mourdock: Okay, any other comments then regarding this project?

James Downing: I'll be there in a minute.

Commissioner Jerrel: Could I ask...Bill, what is your address on Jobes?

William Lockard: It's 601.

Commissioner Jerrel: Okay.

Unidentified: It's the very last house on the left.

Commissioner Jerrel: Okay.

William Lockard: Like I said, right next to the trucks coming and going at 6:00 most mornings.

Commissioner Tuley: Oh, yeah.

President Mourdock: Go right ahead.

James Downing: Are you ready?

Commissioner Tuley: Yeah, we're ready.

James Downing: My name is James Downing and I live on Boehne Camp Road. This is my first time to ever come to one of these meetings. I was concerned what he was saying a while ago about blocking that drain under the highway coming from Mission Viejo. There is an awful lot of water that comes in behind Mission Viejo there. I have lived there for 50 years. What will that do? I mean, it won't affect me. I live across from Mission Viejo.

Commissioner Jerrel: Can you show him on this?

Bill Jeffers: Yes.

Commissioner Jerrel: You want to come up here.

Bill Jeffers: Let's look at this map here and the area that I had asked Mr. Farney here to study was here is the top of the hill right across here. It's a small area, but there are some apartment buildings down in here now like this. You see this is a big deep depression that they have marked here. It goes all the way down to whatever this elevation is.

Commissioner Jerrel: Now, where is he on Boehne Camp Road?

Bill Jeffers: I'm not sure where this fellow lives.

Commissioner Tuley: Across from the apartments you said, didn't you?

Bill Jeffers: Oh, here is the creek behind Mission Viejo that runs on down to Red Bank Road. Here is the church.

James Downing: Where is the church?

Bill Jeffers: Right here. Isn't that the Mill Road Baptist...I mean, not Mill Road.

James Downing: It's the Twelfth Avenue.

Bill Jeffers: Twelfth Avenue Baptist, yeah.

James Downing: Community Twelfth Avenue Baptist, okay. I'm up here at this corner, where is the highway at?

Commissioner Jerrel: Here is the highway.

James Downing: Okay, there is a church here.

Bill Jeffers: There is a smaller church right there.

James Downing: Okay, I'm right here. Here is where I'm at.

Bill Jeffers: Okay, you're right across.

James Downing: Right there.

Bill Jeffers: You know out in front of your house there is a deep depression right here.

James Downing: Right here, yes.

Bill Jeffers: See that is 453.4 and then a pipe goes across the road into this depression and that is what I was wanting to see.

President Mourdock: Let me clarify, is that the same pipe you're concerned about, Mr. Downing?

James Downing: Well, he's talking about blocking which off where?

Bill Jeffers: This one here.

James Downing: You block this off and all this water, I mean--

Bill Jeffers: Right, I wanted to know how high this water would get in this depression here and the one across the road in front of your house. I want to know what the maximum height of that water would be.

James Downing: We don't have city sewer or nothing.

Commissioner Jerrel: Oh, okay.

James Downing: All of our drainage is going through here which is--

Bill Jeffers: It's a very remote possibility that would get totally blocked, do you know what

I am saying? It would take a huge tree to get in that pipe and totally block it.

Commissioner Tuley: Now, but it sounds like there might be confusion. You're saying block it, you're not talking about deliberately blocking it? You're talking about if by accident it gets blocked?

Commissioner Jerrel: No, it's not going to be closed.

James Downing: Oh, well that's what I was thinking.

Commissioner Tuley: Yeah, there was some confusion there.

Commissioner Jerrel: He was just saying--

Bill Jeffers: No, the way we look at a pipe is that if by some freak of nature a tree would fall down and float into that pipe and block it, you know, and then you had a big rainfall before that tree was pulled back out I want to know the worst possible thing that could happen due to that and Mr. Farney here calculated that the worst possible thing that could happen the water would rise to an elevation of 440 feet above sea level which is 13 feet below the bottom of the hole in front of your house--

Unidentified: Thank you all.

Commissioner Jerrel: Uh-huh, bye.

Bill Jeffers: --so it wouldn't even back up under the road.

James Downing: No, it won't bother my house, but I was understanding that you was going to block this.

Bill Jeffers: Oh, I'm sorry I left you with that impression. The way we look at things--

James Downing: Because I didn't think you can block that--

Commissioner Jerrel: No.

Bill Jeffers: No. I'm talking about an accidental blocking.

President Mourdock: Yeah, okay.

Bill Jeffers: If a tree fell in and floated down there and got jammed up in there.

James Downing: It's a good thing I showed up down here.

Commissioner Jerrel: It's a good thing. You learned something by coming and that helps.

James Downing: I have seen this right in front of my house, that drainage pipe, get up to the top of my driveway, that's about a four foot drop in there, when we have a real heavy storm. We don't have it very often.

Bill Jeffers: The pipe going from your driveway over to Mission Viejo might be a little too small. I mean, for a huge, huge rainfall those parking lots that those churches have put

in it might be a tad small.

James Downing: Okay.

President Mourdock: Okay, I think we got our answer.

James Downing: That's the only thing I was wanting.

President Mourdock: Okay, that you Mr. Downing.

James Downing: I was just trying to find out what was going on.

Commissioner Jerrel: Well, I'm glad you came.

James Downing: Okay, thank you.

President Mourdock: We appreciate your patience sitting through the whole meeting to be the last one at the microphone.

James Downing: I learned something tonight.

President Mourdock: We do have before us the Surveyor's recommendation for preliminary approval.

James Downing: (Inaudible comments made away from microphone.)

President Mourdock: No, we're not.

Commissioner Jerrel: I will move approval of the preliminary plan.

Commissioner Tuley: I will second.

President Mourdock: So ordered. Again, that sewer issue, as Commissioner Jerrel was saying, there is always a possibility if a bunch of people get together to do something under the Barrett Law, but that would need to be done through the County Commission.

James Downing: Well, we asked for it 20 years ago and have been turned down four or five times.

President Mourdock: Through the Barrett Law or you probably just petitioned the city utility?

James Downing: No, we've been...I mean, they told us as far as the city, I mean county rather, said we were going to put one in and everybody signed up for it and then all of a sudden--

President Mourdock: Well, that's--

Bill Jeffers: Well now, until the late '80's--

President Mourdock: Right, that is ancient history.

Bill Jeffers: --the Barrett Law didn't cover sewers because the neighborhood I live in is the first one ever approved in Vanderburgh County under the Barrett Law covering sewers. That's a new thing that came about around '87.

James Downing: (Inaudible comments made away from microphone.)

Bill Jeffers: That was a private project by Mr. Nurrenbern.

James Downing: (Inaudible comments made away from microphone.) Then they put the nursing home in, they come up with a private sewer. We couldn't hook into that one.

President Mourdock: Yeah, but under the Barrett Law it is totally different, so that law didn't exist when you wanted it before so it may help.

James Downing: (Inaudible comments made away from microphone.)

Commissioner Jerrel: You know what I think would help? We need a simple explanation of the Barrett Law. You don't think so? Alright.

James Downing: Well, that's what I've heard, but the briefing never came back to me, but I heard through another grapevine that they are asking about one.

Jim Farney: A gentleman that I work with--

Blue claims

Bill Jeffers: The Surveyor recommends approval of the claims that you have in front of you.

Commissioner Tuley: I'll so move.

President Mourdock: Is there a second?

Commissioner Jerrel: Second.

President Mourdock: Alright, I will say so ordered on the claims. Is there any other business to come before the Board? Motion for adjournment?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

The meeting was adjourned at 8:17 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
Jeanne Delgado
Richard Bengert
Rebecca Bengert
Jim Farney
Jim Schmitt
William Lockard

**Vanderburgh County
Drainage Board Meeting
July 27, 1998**

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Dave Schroeder
James Downing
Others unidentified
Members of the media

**Vanderburgh County
Drainage Board**

Richard E. Mourdock, President

Bettye Lou Jerrel, Vice President

Patrick Tuley, Member

Recorded and transcribed by Charlene Timmons

**Vanderburgh County
Drainage Board
August 24, 1998**

The meeting was called to order at 6:16 p.m.

Approval of minutes

Commissioner Jerrel: The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Tuley: So moved.

Commissioner Jerrel: Oh, I'm sorry!

Commissioner Tuley: I was getting ready to say, wait a minute here!

Commissioner Jerrel: See, I'm just in such a--

President Mourdock: You're doing it so well.

Commissioner Jerrel: I was so intent on moving this along!

Commissioner Tuley: You should have let her go, Richard.

President Mourdock: Yeah, really. I just tried to hand her the gavel back. That's a good way to go, the approval of the minutes is the first issue, that meeting being July 27, 1998. Is there a motion to approve?

Commissioner Jerrel: I'd like to move approval.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Update - Rasche petition

President Mourdock: The second thing on our agenda is to begin through the list of old business as submitted by the County Surveyor's Office. Bill Jeffers.

Bill Jeffers: I had already typed about two pages on the second item, the Rasche matter, but then I got call at 1:45 p.m. today from Mr. Ken Rasche to say that Staub Excavating was on their way over to his mom's property to start removing dirt from the ditch and at 3:10 p.m. today Tom Heerdink called and told me that Staub had arrived and was removing dirt from the ditch but that very sadly Bill Rose, the other petitioner in this matter, passed away last week before he could see this project get started. So at this time we'll just report that as the Rasche matter.

President Mourdock: Okay, any other questions on this issue? Alright.

Surveyor's report - Koch petition and hearing date

Bill Jeffers: The next item, I would like to present you with the Surveyor's report on

the John Koch and Wanda Koch petition. Here is the original. It has color pictures because they don't reproduce very well. I would ask you to pass that original to your Secretary for recording after you've looked at the color pictures during your discussion so that she can put those in the permanent record. At this time the Surveyor presents the Board with his report on the alleged obstruction of a drain located along the west line of Summit Place Subdivision. The petitioners are John F.W. Koch and Wanda L. Koch, husband and wife, living at 201 Thompson Avenue in Summit Place. The petitioners own the property at 201 Thompson and allege the owners of 146 Lant Lane adjacent and west of them planted a tree or trees in the drain thereby "blocking and changing the flow of runoff water". The Kochs also allege the drain was "intentionally filled with dirt" causing water to stand on the Kochs' property. Bill Jeffers, Deputy County Surveyor, visited the site twice between July 20 and July 24, 1998 and observed two willow trees and fill dirt placed within the drain at locations described in the Kochs' petition. One willow tree is planted at the southeast corner of Mr. Hawa's property and one willow tree is planted at the northeast corner of Mr. Hawa's property. Mr. Hawa, who is an owner of the property at 146 Lant Lane, subject of the Kochs' petition, confirmed to the Deputy Surveyor during one visit that Mr. Hawa had indeed planted the willow trees at the advice of his landscaper to "dry up the water that stands in the ditch" after rainstorms. Mr. Hawa also confirms that he had imported some dirt into the drain to fill in some low places that Mr. Hawa alleges held water after these rainstorms. The Surveyor's report contains photographs obtained from Mr. Hawa of one of his willow trees in various stages of its growth. One willow tree shown in the photographs and viewed by the Deputy Surveyor is located in the center or flow line of the drain as that flow line is depicted on drainage plans in our office for both Lant Manor Subdivision and Summit Place Subdivision. The willow tree is located immediately inside the southeast corner of Mr. Hawa's property and immediately west of the Kochs' west property line. The Deputy Surveyor also received photographs of the same willow tree from the Kochs. The Surveyor confirms in his report that both willow trees described above and shown in the photographs received from both Hawa and Koch represent a partial obstruction of the drain as alleged by the petitioner. The Deputy Surveyor also received a photograph from the Kochs showing freshly imported fill dirt laying in the drain from a point near the northeast corner of Hawa's property to a point downstream and north of the northwest corner of Kochs' property. Deputy Surveyor confirms in his report that the fill dirt shown in the photograph obtained from the Kochs remains at that location in the drain depicted in the photograph. The Surveyor confirms in his report the fill dirt represents a partial obstruction of the drain as alleged by the petitioner. It is the Surveyor's opinion that removal of the willow trees located as noted on Mr. Hawa's property, 146 Lant Lane, Evansville, Indiana, will promote better drainage of the petitioners' and the respondent's property. It is the Surveyor's opinion that removal of the dirt placed in the drain as described will promote better drainage of the petitioners' and the respondent's property. The Surveyor requests that the minutes of this meeting recording all the statements made regarding this matter be made a part of the Surveyor's report. So, basically, you should set a hearing date as soon as possible. Their petition was filed with your Board June 22, 1998 and the hearing has to be within 90 days of that date.

President Mourdock: In your discussions with Mr. Hawa was he indicating that he wasn't willing to do anything voluntarily without being prodded by this Board?

Bill Jeffers: He was very adamant that he would not voluntarily remove the willow trees nor the dirt.

President Mourdock: Okay. Is anyone here tonight on Mr. Hawa's behalf? Okay,

shall we schedule a hearing date?

Commissioner Jerrel: I move that we set a hearing date next month or some other time? What do you recommend, Mr. Jeffers?

Joe Harrison, Jr.: The petition was filed--

Bill Jeffers: It was received in the office on June 5th and filed at the Board meeting--

Joe Harrison, Jr.: On the 22nd?

Bill Jeffers: --on the 22nd of June.

Joe Harrison, Jr.: Well, we need to set it...it's September.

Bill Jeffers: You have to give the Auditor time to make sure that Mr. and Mrs. Hawa are the only owners of 146 Lant Lane and mail them proper notice.

Joe Harrison, Jr.: Right, I'll have to get their address from you. Apparently the 28th is going to be beyond 90 days.

Commissioner Jerrel: We'll have to set one sooner.

Joe Harrison, Jr.: The 21st is rezonings. You want to just set a special meeting for the 14th?

President Mourdock: We might even be able to do it the 21st. We had no first readings.

Joe Harrison, Jr.: Oh.

President Mourdock: This week, did we, or last week?

Commissioner Tuley: No, we didn't, you're right. So we could do it the 21st. I will be at AIC on the 14th.

Commissioner Jerrel: Okay, well, let's just set it then. I'll move that we set it at--

Joe Harrison, Jr.: September 21st at 6:30.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Harrison, Jr.: Bill, can you fax me the address for them, for the Hawas, and the full name?

Bill Jeffers: Yes, sir.

Joe Harrison, Jr.: Thanks. Then were the Kochs the only other...they were the sole petitioner?

Bill Jeffers: They were the sole petitioners. They own one lot.

Joe Harrison, Jr.: Are there any other affected lot owners we need to serve notice on? If there are, you might send that.

Bill Jeffers: Right, I think possibly one other might be an interested party.

Joe Harrison, Jr.: Okay, thanks.

Bill Jeffers: I'm having a little balance problem. I have an inner ear infection. If you see me wobbling I promise I won't fall down.

Commissioner Tuley: Weebles wobble but they won't fall down.

Commissioner Jerrel: We had someone fall one time by trying to hang onto that.

Bill Jeffers: Well, if I do don't get excited. I have gone into a pretty good swoon in the last couple of weeks, in the last week or so.

Update on request to relax right-of-entry on Kelly Ditch

Bill Jeffers: Okay, item 2C, we're still waiting for a field survey of the site along Kelly Ditch to determine what we will require for a relaxed easement.

Update on Delgados' request to pipe open ditch

Bill Jeffers: Item 2D, we have not yet received a signed statement from Mr. and Mrs. Delgados' neighbor which would hold the county harmless after the Delgados pipe the ditch.

Regulated drain maintenance contracts

Bill Jeffers: New business, item number 3A--

President Mourdock: Excuse me, let me just add one as old business, Bill. We need to just vote for approval to sign the contracts for the regulated drain maintenance. That needs to be done, but it wasn't on your agenda.

Bill Jeffers: Do you have those?

President Mourdock: Yes, we do. So if there is a motion to approve we can sign those with the packet when we get done.

Commissioner Jerrel: I'll move approval to sign the previous regulated drains.

President Mourdock: Yeah, contracts for regulated drains.

Commissioner Tuley: Second.

President Mourdock: So ordered. Okay, sorry, Bill.

Request to repair bank erosion on Barr's Creek

Bill Jeffers: Okay, back to this other agenda. Item 3A, I placed in front of you a letter from Big Drainage Association regarding the project to repair ditch banks on Barr's Creek. This is a needed project to repair bank erosion along Barr's Creek from Boonville-New Harmony Road to a point approximately 2,500 feet northward. As the letter states, Big Creek Drainage Association is the prime contractor for Barr's Creek maintenance and Blankenberger Bros. has been named as the subcontractor for this project. No additional bidding or appropriation of funds are required to complete the project and the Surveyor recommends that Barr's Creek request to complete the project be allowed by your Board.

Commissioner Jerrel: I would like to move approval of the Barr's Creek Drainage Association project to repair the banks of Barr's Creek.

Commissioner Tuley: Second.

President Mourdock: So ordered.

US Highway 41 drainage area

Bill Jeffers: I think there may be a representative from Big Creek Drainage Association here for item 3B, which will probably be a discussion of development along the North 41 corridor.

John Bittner: I'm John Bittner, the resident agent of the Big Creek Drainage Association. Dave Ellison had another meeting to attend. His main concern is the increased runoff because of the rapid development along 41. He just asked this Board to require the most stringent control of that runoff that is presently required and also to perhaps look into having the Surveyor's Office and the Soil & Water Conservation District look at this from more of a regional basis. We have tonight with us Mr. Droege, from Posey County, a farmer and also with the Soil & Water and he would like to make a statement at this point on the same issue.

President Mourdock: Sure.

Jim Droege: Thank you, John. To the Board here, it's a pleasure for me to be here.

President Mourdock: Please state your name and address for our record.

Jim Droege: Jim Droege, 1200 Caborn Road, Mt. Vernon, Indiana, farmer and Supervisor of Posey County Soil & Water Conservation District. As you're well aware the location that John was referring to is that the, if you will, headwaters of the Big Creek watershed. The greatest quantity of acreage involved in the Big Creek watershed lies within my county of residence. There is some developing concern in that county as the industrial, commercial or whatever development occurs along that 41 corridor and I'm sure as the Board is well aware that while any given rainfall event is not going to produce a greater quantity of water within the development area, but as that area is developed the rate at which that water leaves that development area and impacts the watershed can certainly be significant. Considering that, virtually land that I farm, land that others farm and the bulk of the watershed is outside of the Vanderburgh governmental body lines we're becoming increasingly concerned about that runoff impact as it affects that whole watershed all the way down to the Wabash. I would kind of second the remarks that John made here or respond to any questions that the Board may have of me.

President Mourdock: Questions for Mr. Droege? Okay.

Jim Droege: Thank you.

President Mourdock: I guess, Bill, you're planning to continue the discussion on this subject since you just gave out this map? I think it was at last month's meeting when you originally brought this subject up about having an impacted drainage area and you might talk about the details as to what that means.

Bill Jeffers: Yes, sir. The Surveyor is going to recommend that the Board declare the area depicted on a map that you were just handed to be an impacted drainage area. The area we are recommending is bounded on the south by Inglefield Road, on the north by the Gibson County line just south of I-64, on the west by Old Princeton Road and on the east by Old State Road. The area within these boundaries, it lies approximately one to one and a half mile either side of US 41. This area is targeted for commercial and industrial development and it has already experienced quite of bit of commercial and industrial development to date. It is also experiencing adverse effects from additional storm water runoff as a result of existing land development thus far. The area is served by the Pond Flat regulated drain system which is operating at its fullest capacity with no significant additional flow capacity available, which is to say we've widened those ditches about as wide as they can be. County Commissioners have opened up the bridge openings about as much as you can open them all down through there over the last 15 to 20 years. Your Board is empowered to declare this area as impacted by the Vanderburgh County Drainage Ordinance, Section 201.06 which defines an impacted drainage area as an area unlikely to be easily drained because of one or more factors including, but not limited to a history of flooding, soil type, topography, land use, lack of adequate drainage outlet, location in a floodplain and location within 75 feet either side of a regulated drain. This area conforms to all of those factors in general and to some of them specifically the location within 75 feet of either side of a legal drain applies to where there are legal drains passing through that area.

President Mourdock: Questions for Bill?

Bill Jeffers: If you do declare this impacted, you may impose additional detention requirements on developments within this area which is what the gentlemen were referring to earlier.

President Mourdock: I didn't mean to interrupt you, Bill, I thought you were done. Questions for Bill regarding this? I've got bunch, so go ahead.

Commissioner Tuley: You and I talked about this one day in the parking lot about a month ago and the exact area we were talking about and the problem and the projected growth and it already has an existing drainage problem, so go ahead and ask your questions.

President Mourdock: I guess I have just procedural questions as much as anything. I think given the history of the drainage problems we've had in the area I'm one hundred percent supportive of this, but procedurally do we do this by ordinance from the County Commission point of view? To my knowledge the Drainage Board as such--

Commissioner Tuley: Limited.

President Mourdock: Yeah, is limited in what we can do with an actual ordinance. Also as far as the specifics your last paragraph which says we can impose additional detention requirements, it would seem to me if we were going to do something almost by ordinance we need to specify up front what those are so that as developers come in five, ten, 15 years down the road they know what the rules are that they have to play by. I don't suggest at this point even necessarily put those numbers together, but it seems to me that we're going to have to do that pretty early in the process. Do you agree, Bill, or do you see how this thing unfolds differently?

Bill Jeffers: I agree one hundred percent. We're looking at a detention of at least 10/50 such as the state highway requires for discharge into their right-of-way detaining a 50 year storm and releasing it at the rate of a ten year storm.

President Mourdock: Okay.

Bill Jeffers: Okay, but we're also studying the possibility of 10/100 which would store a 100 year storm after development and release it as if it were a ten year storm prior to development. So it's going to be one of those two. I tend to go with the 10/100 because this is just one of the areas that we're going to come to you and make this recommendation. The next area will be the area between Burkhardt and the county line and from Lloyd Expressway north to Morgan Avenue.

President Mourdock: Why would you stop at Morgan?

Bill Jeffers: That's a good question. We might go to Olmstead.

President Mourdock: Yeah, or to Pigeon Creek itself.

Bill Jeffers: Yeah, Pigeon Creek, correct. As you get closer to Pigeon Creek you would want to release at a faster rate is the only thing I'm thinking.

President Mourdock: Do you then have in mind, Bill, when you'll be getting back to us with what the specifics would be as far as this US 41 area as far as what the recommendation is?

Bill Jeffers: Well, to answer two parts of your question and to give your legal advisor enough time to give you sound advice on whether you should do this in your County Commissioners' hearing or a Drainage Board hearing and then that should give us enough time to give you a nicely formulated report on it.

President Mourdock: Okay.

Bill Jeffers: A month maybe. We're going to be asking all the...we're going to be asking tonight and in the future for voluntary compliance from the developers until you guys put it in place.

President Mourdock: Okay. I guess that brings up another point, just to have that discussion, do we need to schedule, as we would with an ordinance, an actual form of public hearing?

Joe Harrison, Jr.: Yes. What I would do is the Commissioners should consider the ordinance. It would have to be advertised, obviously, ahead of time.

President Mourdock: Is it a true ordinance?

Joe Harrison, Jr.: Yes. I would consider it an amendment to the ordinance that we have now. Just in looking at the ordinance, I have it in front of me, that was passed in '94, it was passed by not only the Commissioners, but the Drainage Board. Probably on the same evening, but I would say that if you wanted to the Commissioners would approve the first reading, the second reading could be a public hearing, if you wanted or vice versa, but then at a Drainage Board meeting before the actual adoption the Board should act to approve it on a first reading or whatever as well also, but the final approval of the ordinance would take place during a regular Commission meeting. Well, I can tell you it looks like here this particular one the Commissioners approved it on the 31st of October, 1994 and the Drainage Board waited a month thereafter and approved it on the 28th of November. It would definitely have to have a public hearing though.

Commissioner Tuley: So the action starts with the Board of Commissioners?

Joe Harrison, Jr.: Yes, and I think this body could start the process as far as accepting a report or saying this is the mapped area we want to start with and then direct the Surveyor to report back with the parameters.

President Mourdock: Is there a date we would like to put on the Commission schedule? I mean, two weeks from tonight? Two weeks from tonight we don't meet, so three weeks.

Joe Harrison, Jr.: It will need to be published twice ahead of time, so we're probably going to need a month at least.

Bill Jeffers: Like I said, we're going to be asking developers for voluntary compliance with 10/50 and 10/100 between now and time you do it and we've already had success from the first person we asked.

President Mourdock: Okay, very good.

Commissioner Jerrel: We could either use September 28th or October 5th.

Joe Harrison, Jr.: Probably one of those two. Certainly we would want a description of the boundary. If we could get a legal on the parameters that's probably as important as anything.

Bill Jeffers: I would check with Metropolitan Development to see how they do their districts and do it the same way they do.

President Mourdock: Okay, well just to keep us moving then, is there a motion that the County Surveyor report to the County Commissioners on September 28th regarding the impacted drainage area on US 41 North?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: Okay, and I'll say so ordered.

Combining Pond Flat Lateral C, Lateral E and Rusher

Bill Jeffers: The next item, 3C, the County Surveyor recommends the Board consolidate Pond Flat C, Pond Flat E and Rusher Ditch into one drain as allowed by state statute. The three ditches are contiguous branches of the same ditch and serve adjacent or contiguous watersheds. Much of the land within the watershed is owned by the same person, persons or families. The benefit of combining the drains is that you will be able to set the assessment rate at the same dollar figure for all the land within the watershed. At present the rates are greatly divergent and actually are unfair because the same ditches are serving the same watershed area.

President Mourdock: Okay, is there anyone present who wishes to discuss this issue for Pond Flat Lateral C and E and Rusher? Seeing none, is there a motion?

Commissioner Jerrel: I'd move that we accept the Surveyor's recommendation to consolidate Pond Flat C, Pond Flat E and Rusher Ditch into one drain as allowed by the statute.

Commissioner Tuley: Second.

President Mourdock: So ordered.

<p style="text-align: center;">American Freightway Depot Permission to connect to regulated drain</p>
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Bill Jeffers: The next item is 3D, Setzer Investment is constructing American Freightways Depot on Hitch-Peters Road. It requires a storm drain to discharge into Keil Ditch, a regulated drain in Vanderburgh County even though it is inside the city limits, and such connections require Board approval. The plan is from Easley Engineering and it shows details of a discharge into the 24 inch plastic pipe encased in a concrete sleeve covered with about two feet of fill on top of the pipe. The details also include a concrete head wall and riprap treatment in accordance with Indiana Handbook on Erosion Control. The County Surveyor recommends approval of the connection of this private drain to Keil Ditch as shown for American Freightways with the condition that all the pipe be bedded according to manufacturer's recommendations. There is no note on the plan that says that and I want that on there and that the developer be responsible for the installment until the trench has settled and all the subsidence has been filled to the surrounding grade.

President Mourdock: Okay, is there anyone here from Setzer Investments or American Freightways or who is affected and wishes to discuss this or otherwise deal with it?

Commissioner Jerrel: I'd like to move approval of the connection of private drain to the regulated drain as shown on the plan for American Freightways with the condition that all pipe be bedded according to the manufacturer's recommendations and that developers be responsible for the entire installation until trenches settle and all subsidence has been filled to surrounding grade.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: I hate those words, too.

Shane's Pointe - Final drainage plan

Bill Jeffers: Item 4A, these are final drainage plans. Shane's point has a preliminary plan approval and only required an emergency overflow channel detail to get final approval. The developer's engineer has submitted that detail on the sheet in front of you showing the overflow channel from the pond into Carpenter Creek. This is located at Upper Mount Vernon and Red Bank. The channel passes through SIGECO property and SIGECO easements and along with your submittal there is a letter from SIGECO granting the developer's ability to construct this channel in their easement. The County Surveyor recommends approval of the final plan for Shane's Pointe as shown in this submittal and ask that the letter from SIGECO be recorded in the minutes.

President Mourdock: Okay, anyone wishing to address the Board regarding Shane's Pointe preliminary drainage approval? None seen.

Commissioner Jerrel: I'll move approval of the final plan for Shane's Pointe.

President Mourdock: Preliminary plan.

Bill Jeffers: No.

Commissioner Tuley: It is final.

President Mourdock: I'm sorry.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Arrowood Subdivision - Final drainage plan

Bill Jeffers: This is also a final plan for Arrowood Subdivision. Pretty much the same as Shane's Pointe. It has preliminary approval already and has been resubmitted at this time with the details we required and a letter from SIGECO authorizing the developer or giving the developer ability to construct drainage facilities in the SIGECO easements. The County Surveyor recommends approval of the final drainage plan for Arrowood Sub as submitted by Morley. That's located east...on Bergdolt Road east of Oak Hill and pretty much adjacent to Romain's development to the south and also that other one that was brought in by Mr. Nicholson, something lake.

Commissioner Tuley: Yeah, I know where it's at.

Bill Jeffers: And so with...and have that letter from SIGECO recorded in the minutes if you would please.

President Mourdock: Again, anyone from the audience wishing to address the Board regarding the final drainage plan for Arrowood Subdivision?

Commissioner Tuley: I'll move approval of the final drainage plan for Arrowood Subdivision.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: Did you say you would like to go back to another matter that was on the agenda?

President Mourdock: Go ahead. Is that your last final?

Bill Jeffers: No, there are a few more.

Commissioner Tuley: Three more.

President Mourdock: Yeah, let's go ahead and keep going through your final.

Leisure Living West - Final drainage plan
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Bill Jeffers: Okay, Leisure Living West is an apartment development by Mr. Pete McCullough located at St. Joe Avenue and Allens Lane. Mr. McCullough is asking for approval of the first phase of the development to be constructed without detention and without underground storm sewers. As to his first request...as to Mr. McCullough's first request the Surveyor is ready to ask the Board to waive the requirement for detention which you are able to do again by your ordinance for sites in close proximity to major streams, in this case Locust Creek at a place where Locust Creek empties directly into a large floodplain area for Pigeon Creek. Other developments south of Allens Lane have been allowed to release storm water undetained into this same floodplain wetland area without detention and the County Surveyor's Office feels it is advantageous to do so with this project in order to move storm water into the Ohio River before the rest of the storm runoff arrives from a huge watershed farther uphill towards Darmstadt. On the second part of the request Mr. McCullough is asking in lieu of underground storm water pipes to run the storm water through the parking lots in a concrete lined gutter in the middle of the parking lots. These are not going to become county streets, these are parking lots, so we asked for calculations on the depth of flow for a 25 year storm and a 100 year storm to determine if there were any peril to private property such as cars. Mr. Easley's calculations show the depth of the water in both cases to be less than six inches which is the maximum allowed by the Drainage Ordinance. Other details on the plan show erosion control for this project in accordance with the Indiana Handbook on Erosion Control. The County Surveyor recommends the Board approve the plans for Leisure Living West as submitted for the first phase with the condition that if any problems are encountered...any drainage problems are encountered prior to initiating subsequent phases the plan may be recalled for additional review. I was hoping that...oh, there is Mr. McCullough. Okay, because my plans are in a big huge roll, just sheet after sheet and there is one overall view of this phase one isn't there, that you took to Area Plan Commission? This would be a final approval because this does not go to full Area Plan Commission. Apartment projects go to the state.

Commissioner Jerrel: Does it show where the parking lot is adjacent to it and where the gutter is going to run?

Bill Jeffers: It shows the channels, yes, ma'am. It shows all those details.

Commissioner Jerrel: I would like to see that.

Bill Jeffers: I mean I kept asking for more details and as a result the plans got really thick and I didn't want to lay them all up on there. This is just his first phase and the end of the parking lot is right here. This is St. Joe Avenue here. There will be some water go out into St. Joe Avenue just on the entrance and then this concrete gutter will gather all the water and take it and put it in an earth channel. This will run out to Allens Lane and down the side ditch to Locust Creek.

Commissioner Jerrel: What is the size of that gutter?

Bill Jeffers: They have some details in here somewhere, but I think it's one foot wide.

Unidentified: Three foot wide.

Commissioner Jerrel: Three?

Bill Jeffers: Three? Each half is a foot and a half?

Unidentified: That is correct.

Commissioner Jerrel: That makes a difference.

Unidentified: Excuse me, the way the bids are coming in it is a good possibility of a solid concrete street and it will simply be an inverted crown.

President Mourdock: Okay, any other questions? Any comments from the audience regarding Leisure Living West?

Commissioner Jerrel: I would like to move approval of Leisure Living West final plan.

Commissioner Tuley: First phase.

Commissioner Jerrel: First phase.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Branson Acres 1/Branson Acres 2 - Final drainage plan
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Bill Jeffers: Okay, if you'll remember Branson Acres Minor Subdivision was approved by your Board with the condition that all drainage be piped to Pollack Avenue. This only came before the Board because there were concerns from the neighbors about drainage otherwise a minor subdivision does not come before your Board. After your initial approval, the subdivision and the pond...land bordering the subdivision and land bordering the pond owned by the Culbertsons was raised by fill that the neighbors trucked in. Apparently they were concerned that water would back up out of that pond onto their property so they began filling in. That kind of trapped the water in the pond and its only release was out to Pollack Avenue. If we had continued with our original plan we thought we would cause a peril to the Culbertsons' pond and their yard by blocking that outlet pipe with the pipe that we had recommended be taken all the way out to Pollack Avenue. We are now recommending that Branson Acres be allowed to discharge the storm water into the pond. The Culbertsons have the same concern as we do. They have sent a letter

to us stating that concern saying it would be better to allow Mr. Majors to empty into the lake itself than to block the overflow from the lake with the pipe that we proposed. Based on the Culbertsons...on recent development plus the Culbertsons' concern in their letter to you asking you to let Mr. Major take this minor sub through the pond we are now recommending that a new final drainage plan for Branson Acres 1 and Branson Acres 2 be approved by the Board as submitted by Mr. Bivens who is here in the audience showing the storm water to be detained in the pond and then released through a pipe to Pollack Avenue, all of which exist out there at this time. I'm going to put the letter from the Culbertsons in the minutes.

President Mourdock: Okay. Comments from the Board?

Commissioner Jerrel: You're sure this is it?

Bill Jeffers: No. You're never sure when you have neighbors. I think this is a much better plan than the one we originally came up with. I think the one we came up with, and I accept responsibility for it, was not well thought out and it would have blocked the discharge through the pipe that exists out there now to Pollack Avenue and that this will not do that. This will allow the water to be detained...we're only talking about a very small amount of water for three new homes going into a fairly large deep pond. It's got a 12 inch pipe out to Pollack Avenue and an emergency overflow between Mr. Majors' mini storage lot and the Culbertsons' house there is a swale that would carry any large flow of water that might come through there on out into Pollack Avenue ditch.

President Mourdock: Okay, anyone in the audience wishing to address this issue, Branson Acres? Seeing none, is there a motion for approval on final?

Commissioner Jerrel: I'll move approval of the new final drainage plan for Branson Acres 1 and Branson Acres 2 submitted showing the storm water detained in the Culbertsons' pond per their request.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Discussion regarding combining of legal drains

Commissioner Jerrel: Before you move on I had a note to go back to 3C before we forget it. The Auditor had a question.

President Mourdock: Three C?

Commissioner Jerrel: Uh-huh. Mr. Jeffers, Charlene Timmons, our Recording Secretary, indicated the Auditor needs to know on 3C who you would like to bill? Yeah, which property?

Charlene Timmons: Not which property, but--

Commissioner Jerrel: Which amount are you going to settle on?

Charlene Timmons: Which one of these? You want them all billed the same, correct?

Bill Jeffers: You're talking about on the combining of the drain?

President Mourdock: Right, on Pond Flat Lateral C and E with Rusher.

Bill Jeffers: The least expensive.

Commissioner Jerrel: That's your recommendation?

Bill Jeffers: At this time.

Joe Harrison, Jr.: Can I ask a couple of questions? I should have looked at this when you were talking, but I pulled the statute and I'm not so sure I think we may have to publish the fact that we're doing this ahead of time before the Board actually takes the final action. I think preliminarily they can do what they did tonight, but essentially what is being done is the combination of drains.

Bill Jeffers: Right.

Joe Harrison, Jr.: I'm not so sure it's for reconstruction purposes, I mean, that's what this statute that I'm looking at deals with, but I think what can be done is that we can publish in the paper before the next Drainage Board meeting, you know, what we're talking about and the fact that the rates would go from whatever to whatever sum of money and have a public hearing on that and then have the Board officially approve that. At least you would know what the dollar amounts are. Is that possible?

Bill Jeffers: That being the case then I would like to take a figure to the Auditor's Office from Linda Freeman's office based on the historic cost of maintaining all three drains on an annual basis and have that figure published.

Joe Harrison, Jr.: And then if there is--

Commissioner Jerrel: Well, then actually I'll just move that we advertise before the next meeting and the assessment to be determined at that time.

Bill Jeffers: Thank you.

Charlene Timmons: How many times do you want that advertised?

Joe Harrison, Jr.: Pardon me?

Charlene Timmons: How many times do I advertise it?

Joe Harrison, Jr.: Notice shall be given, it looks like, not less than ten nor more than 30 days before the date of the hearing.

Charlene Timmons: So just one time?

Joe Harrison, Jr.: Yeah.

Charlene Timmons: Somebody will get me something as far as an ad put together?

Joe Harrison, Jr.: I'll work with Bill to get what needs to go in the paper. Technically, we may not of had to of done that because it's not really a reconstruction, but it is a combination of three drains, is that correct?

Bill Jeffers: Yes, sir.

Joe Harrison, Jr.: Okay.

President Mourdock: Do we need to formally rescind what we did earlier, Joe, in your opinion?

Joe Harrison, Jr.: You may want to call that preliminary approval and the final action will be taken at next month's Drainage Board meeting, if there is a motion to that effect to get the ball rolling.

Commissioner Jerrel: I'll amend my motion to reflect that.

Commissioner Tuley: We have two motions on the floor and I'll second both of them.

President Mourdock: So ordered. So ordered.

Commissioner Jerrel: I made the motion, but I'm the maker of the motion and I changed it.

Commissioner Tuley: Okay.

President Mourdock: And I said so ordered twice so we're covered.

Eagle Plaza - Final drainage approval
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Bill Jeffers: I think we're on 4E, Eagle Plaza preliminary drainage plan was received and approved last month. The developer is now asking for approval of a final plan. The final plan was submitted by Jim Farney, who is here in the audience with the developer, Mr. Gene Hahn. It was submitted in a set with street plans, a complete set of street plans for Eagle Plaza. The County Engineer presently is reviewing the street plans and expecting to bring them to the Commissioners next week. All the major storm water facilities shown in the watercourse that passes through the project are designed for a fifty year storm. Those are the pipes that connect with pipes under State Road 62. A 100 year storm will just top the emergency spillway of the retention way, so he has quite a bit of storage out there in that way. There are some minor details our office would like to address with the County Engineer that relate to the roadway plans. There is a pretty large set of plans over there. This is the development that is between Red Bank Road and Boehne Camp Road on Indiana 62 that is catty-corner from University Plaza Shopping Center. Having said all that, the Surveyor recommends approval of the final drainage plans for Eagle Plaza with the condition that the developer seriously consider up sizing the last run of 48 inch pipe shown on his plans discharging into the lake up to a 54 inch size which would pass the 100 year storm. I'm going to show you where I am talking about on the plan. Okay, it's coming out from under the highway. That is what the highway already has installed, a 42, and then it picks up here it's a 48 and this piece here is shown as a 48 and we're asking...it serves the service road and everything and we're asking that it be up sized to a 54. The reason that I'm saying we're asking the developer to seriously consider this is that a 48 is shown by Mr. Farney's calculation to pass a 50 year storm, the same as the highway's pipe. We don't have the authority to demand a 54, but since he is filling a watercourse, a natural creek that went through there, we're simply asking them to consider it and hoping that his supplier hasn't already cast the 48 inch pipe. So it's not a demand, it's just a

request. Mr. Hahn is here in the audience. That's the one condition and the other condition is that your approval, if given tonight, take effect at the same time as the Commissioners' approval of the street plans which would give our office another week or two to go over some details of the plans with Mr. Stoll with regard to the roadways. For example, where this discharges out to Boehne Camp Road it appears as if the ditch along Boehne Camp Road may not be presently sufficient to handle new discharge off the service road. We want to see if County Highway is going to have time to do the work or whether Mr. Hahn is going to be asked to do the work, that type of thing. Those are the kind of details I'm talking about. Everything else complies with your ordinance. The calculations were submitted by Mr. Farney and are accurate and we recommend approval with those two conditions.

President Mourdock: Comments of the Board?

Commissioner Tuley: Bill, Mr. Farney is here. Is Mr. Hahn or are you aware of Bill's recommendation and you guys have had a chance to discuss it with him?

Jim Farney: Yeah, I mentioned it to Gene. I need to go find him, he is out in the hallway somewhere. I mentioned it to Gene just before Bill came up here. It's something that Bill asked for today.

Commissioner Tuley: Okay.

Jim Farney: I didn't get any necessarily negative read out of Gene on that.

Commissioner Jerrel: Do you want to go see if you can find him?

Jim Farney: Do you want me to step out? Sure.

Bill Jeffers: Like I said, it's not a requirement in the ordinance it is just something that we're looking at for that particular site.

President Mourdock: While we're waiting is there anyone else wishing to address the issue of Eagle Plaza?

Commissioner Tuley: I'm sorry?

President Mourdock: I'm just seeing if anyone from the audience was ready to address this issue and if not maybe we can go ahead. I'll tell you what, while we are waiting for him to return and before we go to the preliminary approvals...oops, he's back.

Commissioner Tuley: There he is.

Gene Hahn: He says on one of the drain pipes we need to go from what to a 54 inch?

Jim Farney: A 48 inch to a 54 inch.

Gene Hahn: To 54 inches and that is very doable for us. If that clears any problems we'll be glad to do it.

President Mourdock: For the record it's Gene Hahn at the microphone.

Gene Hahn: Okay, thank you.

President Mourdock: Gene, you're saying that you are willing to accept the recommendation of the County Surveyor's Office to go with the 54 inch pipe?

Gene Hahn: That is correct.

President Mourdock: Okay.

Commissioner Jerrel: I'd like to move approval of the final drainage plan for Eagle Plaza with the condition the developer consider sizing the last run of 48 inch pipe into the lake to 54 inch and the condition that the Drainage Board approval of the final plans takes effect upon the Commissioners' approval of the street plans which is about another week.

President Mourdock: Okay.

Commissioner Tuley: I'll second. Bill, Mr. Hahn did state that going up to 54 won't be a problem.

President Mourdock: Okay, motion and a second, I will say so ordered then. Thank you for working with the Surveyor's Office on that one.

Jeanne Delgado - Request to pipe open ditch

President Mourdock: Okay, before we go then to our preliminary drainage plans, Bill, if you would Ms. Delgado came in. She was here at our meeting last month and apparently has now submitted a document, petition if you will, regarding what the county was requesting on a hold harmless type agreement. My notes from that meeting say that there is one neighbor who might be flooded by the move of a pipe and she was going to get with that neighbor and come back to us next month. Obviously, she is here. Ms. Delgado, if you care to bring us up-to-date.

Jeanne Delgado: I went around to all my neighbors on Burch Drive in the subdivision Fox Hollow. I walked down and got all the signatures of the people on that side of the ditch and I've got the signatures of the people on Churchill where the reservoir pond is. There are three of them there. I also walked down our street, King George Road, with all the people who are on that side of the ditch and asked them to sign this letter that I had wrote and I had gotten with Mr. Harrison about what I needed to put in the letter to make the county not liable for the pipe that is being installed.

President Mourdock: Okay, my notes from last month are showing that there was one particular person...I'll just read what I wrote:

"Surveyor's Office and Engineering Office say no to request, but she (you) claim that the neighbor who might be flooded by the pipe is willing to go along with this."

Is that one neighbor, did she sign this document?

Jeanne Delgado: She is on there. Her and her husband both. They live next door to David and Lisa Heard.

President Mourdock: And what is that neighbor's name? The one of concern.

Jeanne Delgado: I can't remember their name now on there. It's 1349 Churchill Road. They're at the very top of the letter.

President Mourdock: Again, which name, do you know?

Jeanne Delgado: Let me get my letter here. McClain or McClair. Right at the very top.

Commissioner Jerrel: Oh, okay.

Jeanne Delgado: She said she was glad to sign it. She says that they were happy with the pipe that was installed on the other side and they had no problem with it.

President Mourdock: What was the address again, 1340?

Commissioner Jerrel: It's 1349 Churchill Road.

President Mourdock: Okay.

Bill Jeffers: Is that immediately behind you?

Jeanne Delgado: No, there was no houses behind us built and I had got with Lisa Heard on that and she said the only house that was back there at the time was the 1349 and she said that she remembers that is who you talked to, that you went over and talked to that builder.

Bill Jeffers: I'm talking about the one that is behind you now.

Jeanne Delgado: I had talked to the gentleman on Burch Drive back behind me.

Ben Delgado: Ben Delgado. The address he is talking about right behind us, that house is in the process. You know, he got it built in about what...90 days? There is nobody there. It is for sale right now. We cannot get hold of the builder and the realtor will not return our calls.

Jeanne Delgado: But the other people that are living behind us, there are like two houses, and I got hold of him and his wife.

President Mourdock: Pat, do you have a point?

Commissioner Tuley: Well, I you remember there was a letter written submitted by, I think, the Surveyor's Office and the County Engineer that talked about the potential for problems down the road if we did this. In the minutes here I asked that it be very clear that those people who sign this have read that letter and understood what they are reading. Does that address that? I don't have that exact wording...that report you had, Bill. I don't know if it is in the minutes from last week or not.

Jeanne Delgado: Well, I have what Bettye Lou gave me down that she had wrote and what I needed and then I was supposed to call Joe about it. That's what I called Joe about. I kind of made some notes on the bottom.

Joe Harrison, Jr.: You have not obtained the signature of the developer of the one

home?

Jeanne Delgado: Just that...yeah.

Joe Harrison, Jr.: Is that the one we talked about?

Jeanne Delgado: No, that's not the one we talked about. The other one was the one on Churchill.

Joe Harrison, Jr.: Right.

Jeanne Delgado: That was the house that he had talked to the builder about that he was afraid of the flooding and she was more than happy to sign it.

Joe Harrison, Jr.: The other thing I had asked about was that they be notarized, but you didn't get them notarized.

Jeanne Delgado: There was no way I could have it notarized to get all them people together, not as many signatures as I got on there.

Joe Harrison, Jr.: Right, but that is one of things I said you needed.

Jeanne Delgado: I mean, I can have it notarized in front of a notary that I myself personally saw them sign that, I can do that.

Joe Harrison, Jr.: No, I understand.

Jeanne Delgado: But to get all them people together with the kids and their schedule there is no way that I could have done that.

Commissioner Jerrel: Okay, so what are you saying would be the best way to do this?

Commissioner Tuley: Well, I don't have that letter in front of me. There was a letter presented...Bill, do you remember it? It had you and the Engineer both had said you felt there would be a potential problem if we pursued ditching this.

Bill Jeffers: Right.

Commissioner Tuley: What I was wanting...it was from John Stoll? Okay, maybe it wasn't it you.

Bill Jeffers: The letter was John Stoll's composition regarding the problems he had with it. I'm sorry if there is any misunderstanding between us and the Delgados with regard to this project or proposed project. My major concern is a house immediately behind that.

Commissioner Tuley: The one that they can't find the owners.

Bill Jeffers: The one that may not be occupied at this time. I don't know. I just saw it being built and saw that the crawlspace opening was about a foot, foot and a half lower than the top of their ditch bank.

Jeanne Delgado: Which I got their signature. That was 1349.

Bill Jeffers: Immediately behind your backdoor. Walk out your backdoor and look across the ditch.

Jeanne Delgado: When you came out that house was not even there, the foundation or nothing, according to our neighbor Lisa Heard. She said she remembers seeing you--

Bill Jeffers: It's there now.

Jeanne Delgado: --talking to the people at 1349, the builder--

Bill Jeffers: Right, I talked--

Jeanne Delgado: --and told him about his crawlspace.

Bill Jeffers: I talked to that builder next door to her because of her project which took place in 1995.

Jeanne Delgado: And they were installing their pipe when the people were moving in. That's what the lady told me.

Bill Jeffers: I talked with the builder of that home next to them the same way I would like to talk to the builder of the home directly behind you or the owner of the home directly behind you because I truly feel that if your pipe does not take the water it will flow through their backyard and into the crawlspace of the house immediately behind you. That is the house I'm most concerned about. All the rest of these are just people in the neighborhood.

Jeanne Delgado: Well, 1349 you were concerned, too, about them because you talked to their builder and told them about their crawlspace.

Bill Jeffers: With regard to Lisa Heard's property.

Jeanne Delgado: Yeah, and when I talked to them since that project has been completed they said that they had no problem with the project. They were glad that she had buried the pipe and they don't have no water in the crawlspace. That was another one at the time when she was doing her project that he was concerned about.

Commissioner Jerrel: Could we have Bill send a copy of that letter to the builder?

Joe Harrison, Jr.: It really doesn't...I think the copy of that letter is going to need to go to that developer or that lot owner.

Jeanne Delgado: I'm sorry, he informed us he has got another ditch back there where his water drains.

Joe Harrison, Jr.: Well, it doesn't really matter. This Board needs to see some approval of this pipe being placed in at that location where we are talking about here. I think that person ought to definitely sign something that is notarized similar to this, similar to the wording you used, but it ought to be notarized and he needs to acknowledge that he has seen the letter from the County Engineer advising of the problem that could arise from the piping of that ditch. If Mr. Jeffers can get that letter to you then you could go out and get the proper signature.

Jeanne Delgado: We've called and left messages with him and with Kattmann Realtors who is handling that and can never get him to return our call and we're not home when he is there. The neighbor said you have to almost catch him there.

Commissioner Jerrel: Well, can we...we can accept this letter signed by these neighbors, but until the final...accept that tonight and then ask you to...do you know who the builder is? Do you remember the name?

Jeanne Delgado: No, I always have to call the realtor lady.

Commissioner Jerrel: Kattmann? Can you call Kattmann and--

President Mourdock: Builders have a good way of returning the Surveyor's Office calls probably before they would return yours.

Commissioner Tuley: You're going to accept this then?

Jeanne Delgado: So that's why I got his...when I talked to Joe he said get as many signatures as I could.

Commissioner Tuley: Just accept it for the record, but we're not going to approve anything?

Commissioner Jerrel: No, we'll put this in the record. You know, accept this in the minutes, but ask you to get in contact with that builder and show him the letter and then use this same...you've got the language, after he reads that letter.

Joe Harrison, Jr.: It needs to be notarized.

President Mourdock: Right.

Joe Harrison, Jr.: From him.

Jeanne Delgado: Can he take a copy of the signatures I already got so he can see how many people have already approved it?

Commissioner Jerrel: You've got a copy of that? Yeah, so he sees it.

Joe Harrison, Jr.: It sounds like he is most concerned with this missing piece of the puzzle.

Bill Jeffers: The one that is immediately adjacent to the Delgados' property, immediately west of and adjacent to the Delgados' ditch which would be the first one to come in and say an obstruction has been placed in a drain--

Jeanne Delgado: A privately owned drain.

Bill Jeffers: --and is causing a problem.

Jeanne Delgado: It's also a privately owned drain.

Bill Jeffers: It's a mutual drain. It serves more than one parcel of property.

Commissioner Jerrel: Would you do that?

Bill Jeffers: Yes, ma'am.

Commissioner Jerrel: I'll put that in the form of a motion.

Commissioner Tuley: Okay, as long as we're clear because I don't want any misunderstanding that the individual you're talking about has read and understood the letter prepared by John Stoll and that letter be notarized. If that is the understanding of this Board and the Delgados then I'll second your motion.

President Mourdock: Okay, and I agree. We need to make sure you don't feel that you're jumping through hoops here and we're not trying to put up barricades in front of you, but understand that this Board if we were to take action to move that pipe or to do anything differently with that pipe that resulted in someone else having the problem this Board is going to be sued. We don't want that to happen.

Jeanne Delgado: I also had another question concerning the parcel behind me.

President Mourdock: Let me just add one thing before you say that. Since there was a motion and a second I will say so ordered to the motion. Now, go ahead.

Jeanne Delgado: On the parcel behind me every house has what they call a clean out pipe and it is on their own property. Now the builder or the plumber for the builder has put that pipe on our property considerably in on the property. If you walk down through there by the ditch you can see where everybody else's is put back on their side of the property and we want to know what do we need to do to see about getting that pipe off our property?

Commissioner Jerrel: Has there been a permit approved? Any red tag on the--

Jeanne Delgado: Not that I know of and this the...I have taken some snapshots here. This is the pipe I'm talking about. They have dug on our property and now it is settling where there is erosion and stuff there and we're having enough problem with that ditch. Why they put it on our property--

Commissioner Jerrel: Wouldn't that be a function of the Building Commission? The plumber had to have...well, they get tagged out there. If they don't do it right they put a red tag on it.

Joe Harrison, Jr.: That's a legal...it has nothing to do with this body, but you're going to have to check and see if the pipe is in the utility easement and everything else. I mean, who knows, it very well could be.

Commissioner Jerrel: I'd call the Building Commission and ask for the plumbing inspector.

Commissioner Tuley: Just have to make sure it is located right.

President Mourdock: Yeah, right.

Commissioner Jerrel: Do you have your...do we have the original? Okay. You want to take this back.

Jeanne Delgado: We need to come back next month again?

Commissioner Jerrel: Well, do you have their phone number?

Bill Jeffers: When I go out there I will leave a notification that I've been there with my phone number on it if they're not home.

Commissioner Jerrel: Okay, and then we'll let you know.

President Mourdock: Joe, regarding this hold harmless statement that Ms. Delgado hopes to present to the builder, is the form that you saw on this petition of sorts adequate for that purpose if it is notarized by that builder?

Joe Harrison, Jr.: The only thing I would like also in there is a statement saying that the owner of that lot acknowledges that they have read the letter from the County Engineer advising of the potential problem by the piping of that ditch and then I want it notarized.

President Mourdock: Okay.

Baseline Park - Preliminary drainage plan
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President Mourdock: Okay, with that item behind us we're back to the schedule now for the preliminary drainage approvals. The first one is Baseline Park.

Bill Jeffers: You ended your Commissioners' meeting so quickly that I ran out of time to type my cheat sheet so the rest of it is not available in printed form. The next item is Baseline Park which received a partial review last month with a request by us that it be set aside until this month for a more thorough review. We have completed our review. One of the main concerns expressed by the Board and residents of the area was that...of the general area was that it would create a lot more storm runoff in the North 41 corridor and into Pond Flat Ditch system, so we asked the developer's engineer to show us a 25 year storm design, a 50 year storm design and a 100 year storm design whereby all three of those storms after all the concrete, asphalt and rooftops were installed the rainfall from each one of those events would be routed through a detention basin and discharged at a ten year rate based on predevelopment pasture or agricultural conditions. He did that. It showed that the storage height of the water in the basin during a 100 year event would be 442 feet above sea level and that brought up another concern on the part of the Board and our office and some residents in the immediate area as to what would happen when the water from that project was sitting in the basin at a height of 442 feet above sea level would it back out of any street inlets or would it blow the rim off of an area inlet or something like that and subsequently flood Baseline Road in particular or US 41. I transmitted those concerns to Mr. Farney, who is the design engineer for the developer, and he has several maps with him here tonight to show what would happen under an extreme rainfall event in its current condition as an agricultural field and then what would happen...where the low points are on Baseline Road. They went out and actually surveyed it, and where the low points are and where that water might go if one of these huge rainfall events were to cause an unexpected accident. You might want to look at those first and take comments from the audience, but we have reviewed all the data that he submitted last month and this month. It does substantially and almost completely conform to all parts of your ordinance for a preliminary drainage plan and he has addressed all the questions that we put to him with regard to what will happen and he can explain that to you.

Jim Farney: For the record, my name is Jim Farney. As Bill has said we were here last month and introduced this project. There were some neighbors here who had some concerns about the drainage. We are aware of the sensitivity of the drainage all the way up and down the 41 corridor. What we have proposed is a wet lake on Lots 1, 2 and 3 which you saw last month and the calculated 100 year flood elevation is expected to reach elevation of 442. What we've done on this map is we've colored in orange the extent of what 442 currently is today so if it were to flood it would be the area along 41 which would be flooded. The entrance road into the project is back...there is going to be a frontage road built as per the plan for the 41 corridor for frontage roads and the entrance comes through this hill and all the inlets and storm sewers in that road that will empty into that lake are further up on the hill at higher elevations. One of the concerns was would the water back on the lake and run backwards through the inlets and the answer to that is no because the road would be much higher than the 442 elevation. What we've also done is if the lake were to overtop at the 442 because, for instance, the culvert under 41 won't let the water pass and there is some backwater conditions that are expected or may occur then what we've done is analyzed at what point or shown what point the water would overland and to get away from the project and the answer to that is it would go across Baseline Road right near the approach to 41 and it would back up this ditch until it could overtop the high point in it and go down to Flat Pond Lateral A. Now in order to overtop Baseline Road the lowest portion of Baseline Road is about 443.2 and this green area behind there shows the additional flooding that would occur on the site before it would overtop that 443.2 elevation. So what we tried to demonstrate is the fact that all the flooding is isolated on this development, it's all along the 41 corridor. We don't anticipate or expect any water to be able to go backwards through the system and find some other weak point in the system to go out the backdoor and flood somebody inadvertently by back flow. There was a concern by a gentleman, I don't know if he is in the audience tonight or not, about a culvert under Baseline Road last month. We still anticipate or are designing the project in accordance with the idea of eliminating that pipe and routing the drainage in this area instead through the lake in order to try to help him out with his problem.

Bill Jeffers: That's the fellow who had a mechanics garage directly across. It shows clearly on that map where that ditch is.

President Mourdock: Okay, questions from the Board to Mr. Farney? Okay, questions from the audience then, and I realize you couldn't see all the finger pointing that Jim Farney was doing, but I'm sure he'll be glad to explain that to you as well. You're welcome to come up here as well. Please do state your name and address.

Richard Bengert: My name is Richard Bengert, B & B Auto Parts, 510 East Baseline Road. Okay, is this the entrance here?

Commissioner Tuley: Yeah, that's a culvert.

President Mourdock: Right, that's the culvert.

Commissioner Tuley: That's not the entrance though.

President Mourdock: The entrance is further back this way.

Commissioner Tuley: Might have Jim come up while he is asking the questions.

Richard Bengert: Oh, I thought the entrance to the project was right across from us here. Isn't this where it is?

Jim Farney: The entrance to the property is going to be approximately right here.

Richard Bengert: Approximately right there?

Jim Farney: Yeah, and it runs to this line.

Richard Bengert: The only thing that makes it so bad right now we're getting flooded now. I don't know what we're going to do if it isn't handled properly. If there is any way you can eliminate that we can handle all the water on our side of the road, but by getting this off of this large area here and it really pours down through there and my daughter-in-law showed you the pictures last week...or last month what it looked like.

Commissioner Jerrel: Didn't you just say you intended to remove that culvert?

Jim Farney: Yes, we do.

Commissioner Jerrel: That would--

Richard Bengert: Satisfies me.

President Mourdock: Okay, alright, thank you, Mr. Bengert.

Richard Bengert: Get rid of that we're in good shape. Thank you.

President Mourdock: Okay. Any other party wishing to comment on the Baseline Park Commercial Subdivision? Okay, the plan again is being submitted to us for preliminary approval this evening.

President Mourdock: I'd move approval of the preliminary commercial subdivision on Baseline.

Commissioner Tuley: Second.

President Mourdock: I'll say so ordered. You heard, I think earlier this evening, Jim, about the comments that we're trying to schedule for a meeting next month to begin to accept public input on the idea of having the area out there as impacted drainage, so you might want to stay in contact with Bill about that.

Bill Jeffers: We appreciate the effort on the part of the developer and Mr. Farney to give us facts based on a 100 year storm.

President Mourdock: Right.

Bill Jeffers: And encourage him to detain at least a 50 and hopefully a 100 year storm.

President Mourdock: Yeah, good point.

Camden Farms - Preliminary drainage plan

President Mourdock: Okay, the next one is Camden Farms for preliminary. How are we doing on tape? Do you need to change the tape?

Bill Jeffers: Camden Farms is located at the intersection of State Road 57 and Kansas Road. It's immediately across 57 from what used to be Sunbeam Plastics. I'm sorry I don't know the current name. It's on the south side of Kansas Road. It's immediately east of and adjacent to Windemere Farms developed by Mr. Dan Buck. This development is another development by Mr. Buck. It's also being designed by Sitecon, Incorporated who also designed Windemere Farms so it's basically a continuation of the same design and principals that are being carried out in Windemere Farms. We haven't experience any serious problems there thus far. I have highlighted the ponds that he intends to build in blue. There is one small pond in an outlot within the subdivision that will handle the northernmost portion of the subdivision up towards Kansas Road and then there is a large wet pond that is kind of L shaped along the eastern boundary of the subdivision. It is shaded in blue. I have down there that it's three times the size required for a 100 year storm and it is a wet pond and what that is due to is that the developer needs a significant amount of fill dirt because 75 or 80 percent of this subdivision is located in the floodplain and if you look on the plat for this subdivision you'll see the finished floor elevations that have been assigned to the lots and realize that he needs quite a bit of dirt to raise the building pads for the subdivision. That's why the lake is so big. I have an orange area highlighted that I am concerned about because it is immediately downstream of the dam for the lake in Windemere Farms. At this time it's just a cautionary note to Mr. Keith Poff, who is here in the audience from Sitecon, that I'll need some type of detailed grading plan for those two lots to show that the homes built on those two lots will be safeguarded against any adverse affects from being on the downhill side of a small dam for that lake. I have an area shaded in pink that I'll need to see the ability to pass a 100 year storm flow along that tributary of Furlick Creek because basically what is going on there is there is just a small natural tributary that is not studied by the Indiana Department of Natural Resources like Furlick Creek has been studied, so we don't know what the affect of a 100 year storm would be on that tributary and we're just asking for an emergency pass through the development for a 100 year storm. He'll provide that in the final plans. Then where the larger lake discharges into Furlick Creek he will be doing some minor construction of a channel in a designated floodway and he'll have to deal with the Department of Natural Resources with that. That requires a permit, but it is not under our jurisdiction, so that's just a note over there that will have to be approved by DNR, but it doesn't require any action on your part. That area that the large lake lies on has been targeted for commercial marketing because of its location on 57, so it really at this time is not anticipated to be part of a residential development, so what he has done there is he has shown you that the entire lake and the channels over outside the subdivision boundary are an easement attached to this subdivision because you would have to have an off-site easement for those facilities and then an agreement will be worked out between the developers of that possibly commercial site and the developer of the residential area you're looking at as to how the maintenance would be carried out in that way. These will be addressed in the final plan. Having said all that, the requirements of a preliminary drainage plan for Camden Farms have been met and the Surveyor recommends approval of the preliminary plan at this time.

President Mourdock: Questions of the Board? Questions from the audience

regarding Camden Farms. Sure, come on up. Bill, if you would--

Bill Jeffers: Here are the calculations Mr. Poff submitted along with the detailed schedules.

President Mourdock: Either Mr. Poff or Bill one of you--

Commissioner Jerrel: Do you want to take that up there and you can go over it with him?

Bill Jeffers: Okay.

Commissioner Jerrel: You can just put it up there on the podium if you want to.

President Mourdock: If you would, please state your name and address for the record for us.

Bill Miles: Bill Miles, 2701 Waterstone.

Mark Perfitt: Mark Perfitt, 2702 Waterstone.

Bill Jeffers: You all live in Windemere?

Bill Miles: I live right here, he lives right there.

Keith Poff: (Inaudible.)

Bill Miles: They're proposing to put a lake in here or retention pond?

Keith Poff: Yes, that's a small retention pond (inaudible).

Bill Miles: The only objection we have--

President Mourdock: Could you speak a little louder, please? I'm sorry, I can't hear you with the noise in the background here.

Bill Miles: The concern that we have...I live on Lot 34. The pond is behind or Windemere is...he is 33, Mark is. They pumped that pond out to put in the brick culvert or the concrete culvert on the backside of that pond for the drainage to put this in. When they pumped it out we had one rain and that pond filled back up. That's an acre and a half. It's a large pond. It was dredged out. It's 18 feet deep according to the developer. If it filled up with one rain what's it going to do when you fill all the wetlands up? This part, Windemere Farms, isn't but half developed. There is a lot of concrete and roof to go in there.

Bill Jeffers: Any serious problems there now?

Bill Miles: No.

Bill Jeffers: With regards to any of the drainage system in Windemere?

Bill Miles: No, we're just concerned about the future.

Bill Jeffers: The reason they pumped the pond dry was because we found some

items that we felt needed to be addressed last winter and they went out and addressed those items and one of them they had to pump the pond dry in order to finish the dam and install those concrete discharge culverts so that your system would work correctly and they did that and we haven't discovered any...the reason I'm asking you now is we have not discovered any additional problems since that time. If there are any I certainly want to know them immediately.

Bill Miles: There has not been any problems, we just wanted to know if it fills up with one rain.

Bill Jeffers: You might want to know this fellow here designed your sub.

Mark Perfitt: We're just concerned how it backs up (inaudible).

Bill Jeffers: Right, I am, too, and that's why I have that shaded that I definitely want to see details to make sure that the owners of these next two lots adjacent to yours do not experience any problems from your side of the pond.

Mark Perfitt: (Inaudible.)

Bill Jeffers: He is going to supply the proposed grading elevation, the final grade elevations on the final plan probably next month.

Bill Miles: The cul-de-sac of our street is downhill. I sit high. There is not going to be any water getting on me or on Mark as far as that's concerned, but if it gets into the street it could flood our street.

Bill Jeffers: Right.

Bill Miles: If it doesn't get out of here quickly. Obviously, if these drains to this pond is back here, what are they going to do, put them under the street and fill all that in?

Bill Jeffers: Oh, no. That will go right through a ditch.

Keith Poff: That's going to remain an open channel below that structure. The emergency overflow elevation (inaudible).

Bill Miles: This is going to be an open ditch?

Keith Poff: Yes (inaudible).

Bill Jeffers: What we had asked them to do was move the water faster out of this end of the cul-de-sac and the water moves out of your subdivision. To move it out of there faster so your water can come through the dam is unobstructed.

Keith Poff: This is a by-pass channel. We're not taking any of this subdivision water into (inaudible).

Bill Miles: You can understand our concern.

Keith Poff: Yes. The spillway elevation should give you that.

Bill Miles: Like I said, I would have never dreamed it would fill up with one rain. This ground out here won't perk at all. It's as hard as that. If you add another roof and

three or four more slabs of concrete and a little asphalt you just have a potential problem. I hope it works. It's worked so far.

Bill Jeffers: Well, I want to tell you something. I was extremely apprehensive about Windemere Farms and Keith can confirm that. I bugged him absolutely to death about that and we went over it and over it and around and around. He and I and Mr. Buck around and around because I was extremely concerned about Windemere Farms and it works. I mean, unless you have any report that you would like to make.

President Mourdock: Okay, thank you for your comments. Before we take a motion we need to change tapes.

Tape change

President Mourdock: Okay, the County Surveyor's Office has recommended on preliminary approval Camden Farms. Is there a motion?

Commissioner Tuley: I'll so move.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Vogel Plaza - Preliminary drainage plan
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President Mourdock: The next one we have, Bill, is Vogel Plaza.

Bill Jeffers: Vogel Plaza is located on Vogel Road midway between Royal Avenue...well, a little bit east of Royal Avenue and Burkhardt Road. I didn't have time to color this one up for you or anything, but basically it's a commercial subdivision proposed three lots, long and narrow, fronting on Vogel Road. Vogel Road would be at the left-hand side of your page. The lots run north in a long slender configuration. There is a detention basin at the back. Again, the developer needs a lot of dirt, so the detention basin has...I've got a design of it here. It's very deep and it stores...it is designed to store greater than four foot depth of water, so it has a fence around it. That's why you see the fence there. During a heavy storm the storage height will increase greater than four feet as well so it may be eight or ten feet deep during full storage capacity, so that is why the fence is there. This is a very preliminary plan because this particular subdivision has to make it through several hoops with regard to the Area Plan Commission and the Drainage Board including various requests for road cuts. The request to reconstruction Stofleth Ditch and install a 12 x 8 box culvert...12 x 5 box culvert connected to a county bridge that was recently constructed by your Commissioner Board. Your County Engineer is going to want to look at the details of the connection between the bridge and the culvert if it's allowed. The Drainage Board will have to have a reconstruction hearing because the ditch number one, it's being piped. Number two, it's being relocated. It does affect Koressel Subdivision which is at the top of your page and to the west of this. It requires that they remove a detention basin in Koressel Sub so that the ditch can be moved over and then they propose to store the volume of storm water lost in Koressel Subdivision over in that large pond on this new subdivision. In order to do that they have to draw in water from the ditch through a feed pipe and store it when the flap gate closes and then release it through a smaller pipe back out into the ditch similar to the way that Mr. Woodward had a pond designed on Nurrenbern

for Burkhardt Crossings. What they've shown me will work in theory and the only reason we're recommending approval of this preliminary plan at this time is so that the developer can go forward through another series of hoops because if we were to require all the details of the reconstruction of Stofleth Ditch and everything we would...they would be spending a lot of money, bottom line. So what we're doing is we're recommending approval of this preliminary plan as if the reconstruction of Stofleth Ditch has already occurred and as if the culvert has already been connected to the bridge on Vogel Road. If that does not occur, if those things do not occur, this plan would be null and void.

President Mourdock: Will those things be known--

Bill Jeffers: They will definitely be known before I bring a final plan of any kind to you. He is just exploring his possibilities here. He already has a permit for the Colonial Bread store on that one lot. Now he is exploring some possibilities of how to use the rest of the land and rather than spend a half million dollars designing a reconstruction, we're viewing this as if the reconstruction has already occurred.

President Mourdock: Okay, questions from the Board?

Bill Jeffers: The engineers are here in the audience if you have a question of them as well.

President Mourdock: Anyone in the audience wish to comment? Will of the Board is?

Commissioner Tuley: Move for approval of the preliminary plan for Vogel Plaza.

Commissioner Jerrel: Second.

President Mourdock: I will say so ordered.

Bill Jeffers: Do we have anything else?

Commissioner Tuley: Claims. Receive and pay claims for ditch maintenance.

Bill Jeffers: No more plans. I can walk faster now! We got through all the plans tonight and I didn't really anticipate any problems, but if we had any surprises from the audience or any surprises from the engineers I had called Linda Thursday to let her know to have an agenda down here to Tony with the item on there that we might possibly need a Special Drainage Board meeting. We obviously don't need that.

Blue claims

Bill Jeffers: So all we have left is the approval of claims all of which are maintenance claims for annual maintenance on regulated drains that have the recommendation of the Surveyor and his signature attached.

President Mourdock: Is there a motion for approval of the claims?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered. Any other business before the Drainage Board?
Motion for adjournment?

Commissioner Jerrel: So moved.

Commissioner Tuley: Second.

President Mourdock: So ordered.

The meeting was adjourned at 7:50 p.m.

Those in attendance:

Richard E. Mourdock
Betty Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
John Bittner
Jim Droege
Jim Farney
Gene Hahn
Jeanne Delgado
Richard Bengert
Bill Miles
Mark Perfitt
Keith Poff
Others unidentified
Members of the media

**Vanderburgh County
Drainage Board**

Richard E. Mourdock, President

Betty Lou Jerrel, Vice President

Patrick Tuley, Member

**Vanderburgh County
Special Drainage Board Meeting
September 21, 1998**

The Vanderburgh County Drainage Board met in special session this 21st day of September, 1998 at 7:10 p.m. in the Commissioners' Hearing Room of the Civic Center Complex with President Richard E. Mourdock presiding.

Call to order

President Mourdock: Okay, we'll call the meeting of the Vanderburgh County Drainage Board, a special meeting, to order on September 21, 1998. The first item and only item on this evening's agenda is for the County Surveyor to present their findings and recommendations concerning the Koch petition to remove an alleged obstruction. Mr. Jeffers.

Joe Harrison, Jr.: Before everyone gets going could I have all those who intend on participating or testifying with respect to the petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Bill Jeffers: Okay, I believe you all have a copy of the petition received by your Board from John F.W. Koch and Wanda L. Koch, 201 Thompson Avenue, Summit Place, that alleges an obstruction or obstructions in the drainage easement on the east side of the...on the west side of their property which is also the east property line of 146 Lant Lane, owned by Mr. and Mrs. F.M. Hawa, that was part of our report, or made part of our report. Then we have a letter we've entered with the Recording Secretary for your Board where Mrs. Koch asked for a one month extension which you granted and then you received our initial report at your last meeting on August 24, 1998 and now I would like to present you with the Surveyor's report supplement to the August 24, 1998 Surveyor's report and ask your indulgence that I have misdated this. I dated it September 28th. Actually it should carry today's date of September 21st. I would like for that correction to be made, please, and I would like another correction to be made back in the body of the report I refer to the trees at the southwest corner...excuse me. To the trees at the southeast corner of Mr. Hawa's property and the northeast corner of Mr. Hawa's property. I refer to them as Weeping Willows, in fact one of them may be a Weeping Willow, one of them is not a Weeping Willow, it's another type of willow, so I would ask your indulgence that they just be referred to as willow trees. With that I'll hand you copies of the supplemental report for today.

Joe Harrison, Jr.: If I could also add that this particular hearing was advertised in the Courier and Press on September 11th and 18th setting a special meeting for the purpose of considering the drainage obstruction petition filed by the petitioners in this case.

Bill Jeffers: Also I apologize for any confusion that I may have caused by dating it September 28th and for a handwritten note that was included in the packet that said I would be introducing a certain letter on the 28th, actually I am going to introduce it right now on the 21st. It's a letter from Mr. W. Cecil Wink and Doris J. Wink addressed to Mr. Joseph Harrison, Jr. stating that:

"We are in receipt of a copy of the petition filed by John F.W. Koch and

Wanda L. Koch against Rouad M. Hawa and Evangeline R. Hawa asking for the removal of an alleged drainage obstruction at 146 Lant Lane in Evansville, Indiana.

We will be out of the country on September 21, 1998 meeting scheduled to address the petition.

We, W. Cecil Wink and Doris J. Wink, of 113 Thompson Avenue Evansville, Indiana wish to inform the Vanderburgh County Drainage Board of our support of the Koch petition.

Our property is affected by the willow tree that is planted at the northeast end of the Hawa property. We feel this tree should also be removed below ground level. This tree is in direct line of the tree in dispute and therefore is in the flow line.

Thank you for your consideration in this matter.”

It's signed by W. Cecil Wink and Doris J. Wink. I'll give this copy to the Recording Secretary. I included that in the report that I handed out and if anyone else needs a copy I have additional copies.

Commissioner Jerrel: This is the original, she can put that in.

Bill Jeffers: Okay. There is also another letter received in the last couple of days that I would also like to enter into the record and make a part of the report along with all the other letters. This is addressed to Mrs. B.L. Jerrel, President of Drainage Board. However, that should be corrected to Richard E. Mourdock, but that doesn't alter the content. It's on Welborn Clinic letterhead and it reads:

“Dear Mrs. Jerrel,

Mrs. Wanda L. Koch has told me that she should attend a Drainage Board meeting September 21, but I have advised her that for reasons of health I do not feel she should go.

Yours truly,

Marshall S. Miller, M.D.”

So that explains Mrs. Koch's absence. Mr. Koch is here. Mr. and Mrs. Hawa are here. I would like to enter that letter along with Mrs. Koch's original request for extension of one month so that can all be part of the record. For expedience I'm going to assume everyone has read the Surveyor's report. It was distributed to the petitioner and the respondent approximately one week ago. This supplemental report basically is no different from the one entered into the record August 24th. It was typed in this form so that it would look and read more like the other reports that have been submitted to you on the same matters and only draw your attention to the fact that the Deputy County Surveyor did examine the site of the alleged obstruction on two occasions following the Drainage Board's order for me to do so and did identify two willow trees, one at the southeast corner of the Hawa property, 146 Lant Lane, and one at the northeast corner of the Hawa property, 146 Lant Lane. The one at the southeast corner is of primary importance to the Kochs because it coincides with their property line and it is the source

of the greater part of their grievance and the one at the northeast corner of the Hawa property is the one which the Winks identify in their letter. The Deputy Surveyor found both of these willow trees to be planted directly in or very near the exact center of the flow line of a mutual drain created for the conveyance and temporary storage of storm water and does represent to your Board that both willow trees represent a partial obstruction to the flow of water in that mutual drain. That is all in this report. The same Deputy Surveyor, myself, also identified a quantity of fill dirt that was imported into the mutual drain by Mr. Hawa for purpose he represented to me that are included in this report and which he can represent to you tonight in person, but I did find that the quantity of fill dirt represents a partial obstruction to the flow of storm water through the drain and also displaces a certain volume of detention that the drain was designed to hold during the storms and it is the County Surveyor's recommendation that the two willow trees and the identified quantity of dirt be removed from the drain...or first of all that you find that they do represent an obstruction and that if you do find they represent an obstruction after the hearing that you enter an order that they be removed.

President Mourdock: Okay.

Bill Jeffers: Thank you.

President Mourdock: Thank you. Questions of the Board for the Surveyor?

Commissioner Jerrel: Not yet.

Commissioner Tuley: No.

President Mourdock: Okay, anyone wishing to address the comments presented thus far?

Unidentified: Do you want us to go first?

President Mourdock: Sure. Please state your name and address.

Fouad Hawa: My name is Fouad Hawa and this is my Evangeline. Since Mr. Koch had the chance to give you his name and what his profession I feel like I need to do so. I work at St. Mary's Medical Center. I'm a laboratory supervisor. My wife is a registered nurse. She is a St. Mary's employee. I've been working there for 18 years. My wife has been there 21 years. Just for the record. We have lived at our house for almost nine years. We moved in in 1990. We bought the property in 1985 as a lot from Bussing, Mr. Bussing. At the time that we bought our property there was no such thing as Summit Place. I have a picture of the landscape as it was over there before we bought. I want the Board to see this picture because it's important. In this picture you're going to see the ditch. This is Summit Place, this is my property on this side. This is the property line over here. This the drain. We planted a tree in there in 1990 when we moved in. We bought the property in 1985. We did not build for five years. We kept it an empty lot. We put this tree over there because there was a problem with the drainage at the time. The water was too high. If you notice the land over here is the same height as over here even though most of the drain was on our property. I'm going to show you a letter from Mr. Lehman. I complained about this development. When they started building Summit Place we complained and the whole neighborhood complained about what they're doing to the property over there. It was shifted...they were adding...they brought dirt from the Lloyd Expressway, when they built it, they dumped it all in that cornfield that was behind us. They built it up where it starts shifting the water

level from their property to come on our property. I'm going to show you this letter and I do have three copies of it for you to see. It's from the Building Commission dated October 1993. If you'll notice in this letter it says numerous complaints from the subdivision, from Lant Lane subdivision. It talks about the shift in the drainage system in there. He had two recommendations at the time. He said the downspout drain should be emptied in the swale that have a 90 degree elbow attached and to grade the bottom of the swale so that the water does not stand in the swale for days after each rain. He acknowledged in the letter, if you notice in the second paragraph, it says about poor...the first paragraph, I'm sorry:

“Due to poor planning by approving agency...”

They build a subdivision without even considering they need drainage over there. After they start building the subdivision they start worrying that we don't have a drain to go for so they emptied it in our drain which happened to be in my backyard which is nothing...so far we haven't done anything, we're fine. They start bringing dirt and building their property and I have a picture to show you what they did. We went from this picture on the top, they built their house...the Kochs built their house, they added more dirt. What upsets me to be here today is I'm the one that should be complaining and it turned around and I'm here to defend myself. They brought all this from this picture to adding dirt and rocks over there. We lived like this for three years. Mr. Clements--

Commissioner Jerrel: This is your property?

Fouad Hawa: This is my property. By the way, they build their property line, they build it on the easement. They do not have a backyard. They have two yards on each side of their house. They do not have a backyard. It's a utility easement, that's all they have ten feet across and then this is the stick right here where it divides the property line which is right here. They added all this dirt in there which shifted all the water table from here shifted over. My fence becomes under water now because all this water shifted over. Then that wasn't enough. That wasn't enough. That was very good on their part, no consideration for their neighbor whatsoever, so we went from that part to something more, so we take the rocks off, we add more dirt and we bring blocks and make a wall in there to make my house look like a prison out there with a wall and they're patrolling it every day.

President Mourdock: Time out.

Fouad Hawa: I'm sorry.

President Mourdock: This is over a period of time? Originally, that was the case and then it went from there to block?

Fouad Hawa: There to the blocks, we went to here.

President Mourdock: To the bricks?

Fouad Hawa: To the bricks.

President Mourdock: Brick or blocks, okay.

Fouad Hawa: They built the wall straight on the easement, right at the edge right there.

If you see the stick...this is the tree, there is a stick right here that divides the property line. They do not have an inch. It's every drop of water that falls is in my yard.

Commissioner Jerrel: Now where does your property line--

Fouad Hawa: This is my property, this is my property line right here.

President Mourdock: Right at the foot--

Fouad Hawa: Right at the footing of that thing. I do have a video if you all have time. I have plenty of time tonight. I have a video to show you what I have to go through every day. They build this wall...I'm sorry, it's too loud. They build this wall right at the property line. Shifted all the water from their property over to our property even though we're doing their neighborhood a favor. They are draining our neighbor, and then to make things worse they put those blocks, just shifted even more. So what did it do to me? My fence is under water 90 percent of the time when it rains. It didn't used to be this way. He is doing more...now, he has room to complain about his has obstruction, obstruction of what? He is living three feet above ground. I am the one that is underground. How could somebody living three feet up be complaining about drainage down under? Well, that is not enough.

Joe Harrison, Jr.: Can I ask you something? I'm sorry.

Fouad Hawa: Sure.

Joe Harrison, Jr.: Are you proposing to introduce those three sheets.

Fouad Hawa: I'll give you anything you want. I'll make copies.

Joe Harrison, Jr.: Okay. If you're offering to introduce those documents why don't we just as a reference point, the first document you submitted was the Building Commissioner letter, is that true?

Fouad Hawa: Right, the Building Commission letter.

Joe Harrison, Jr.: So why don't we call that respondents' exhibit one, okay? If that's okay. Did you have a photo that you intended or you were showing earlier that you wanted to make a copy of or simply these right here?

Fouad Hawa: One picture I don't have copies of is this one. The one very old, nine or ten years old. This one I do not have a copy of. You, I think, in one of your packages that Mr. Jeffers gave you has a copy of this picture. It's black and white, you can't see it very well.

Joe Harrison, Jr.: Well, why don't we do this, if you're proposing to introduce or asking to introduce these other three sheets with the photos on it--

Commissioner Jerrel: I'm going to take off this one.

Joe Harrison, Jr.: Okay.

Commissioner Jerrel: And we'll leave this one with you.

Joe Harrison, Jr.: Okay, why don't we--

President Mourdock: Why don't we make a copy of it before you give that one back.

Joe Harrison, Jr.: Yeah, we can just make copies of those if you want.

Fouad Hawa: That's fine. That probably would be better if I keep the original just in case.

Joe Harrison, Jr.: If that is what you want.

Fouad Hawa: It would be better if I could keep the original.

Joe Harrison, Jr.: Okay, that is fine as long as this Board is willing to look at copies.

Commissioner Jerrel: Would you make a copy of that?

Joe Harrison, Jr.: Why don't we call this photo that she is making a copy of respondents' exhibit two and then we'll number the next ones three, four and five. Can you do that at the top of the sheet?

Commissioner Jerrel: Sure.

Joe Harrison, Jr.: Then we can make copies of those and give them back to you after the meeting, but we'll call the photo on that sheet that she is making, that Charlene is making a copy of respondents' exhibit two. One of these will be three, the other one is four and then the other one will be five just for clarification purposes.

Fouad Hawa: My biggest point here to make is how could they be complaining about drainage when I am the one that should be complaining about drainage not them. They are living three feet above water.

President Mourdock: Okay, any questions?

Fouad Hawa: I have more to show you. I have more letters to give you. I wasn't...the last thing on my mind was to get neighbors against neighbors. I was not going to do this until this last week when I got a letter from Mr. Jeffers. He had included a letter from Mr. Wink, the other neighbor on the other side, and that's the worst thing that could happen is getting the neighborhood in an uproar and that upsets me just to hear that. So I asked my next two neighbors, which is one on the right and one on the south and one on the north of my property which I think those are the most important neighbors that I have. If any of my trees are causing damage to their property it is them. His house is three feet, like I said, that high above water. It's right on the line and he doesn't have even an inch on his side. This is a letter from my neighbor on the north side of my property. That's from Mr. Matthew Hirsch. He has been my neighbor for as long as I have been there and he was actually living there longer than I have. He wrote, you can all read what is in the letter. Then I have another letter from my other neighbor, which I think this is the most important neighbor in the whole--

Joe Harrison, Jr.: As far as the one letter from the neighbor, what was his name?

Fouad Hawa: His name is Matthew Hirsch.

Joe Harrison, Jr.: Okay, why don't we refer to that as respondents' exhibit number six, is that okay?

Fouad Hawa: This one is from my neighbor from the south side of my house. His name is Ken Eskridge. He is the Vanderburgh County School Corporation Director. Like I said, if you notice on those letters they are very, very dated...they are just recent. I wasn't going to get my neighbors involved in this mess because it's not worth my time, my wife's time or my neighbor's time to deal with this problem, but since they included a neighbor I thought we better get the neighbors involved.

Joe Harrison, Jr.: We'll refer to this, if you're wanting to introduce it, as respondents' exhibit number seven, is that okay?

Fouad Hawa: That's fine. I have one more letter which is from my brother. My brother used to live next door to me in the same house that Ken lives in right now. He bought it from my brother. The reason my brother left the house is their house. They built a house right on the property line, ten feet easement and that's it. No backyard whatsoever. He did not want to look at a wall. This letter, I do not have copies of. This letter is from my brother. He lived in that property from 1986 to 1994. That's when Ken bought the house from him.

Joe Harrison, Jr.: Are you asking to introduce that letter as well?

Fouad Hawa: That's correct.

Joe Harrison, Jr.: You want to refer to it...we'll refer to that as respondents' exhibit, I guess, number eight.

Fouad Hawa: By the way, when Mr. Clements built his house I complained to Mr. Clements constantly. I know Mr. Clements very well. Tony Clements is the builder. I complained to him. I told him this is a disgrace to the building code to build a house that close to the property line. He convinced me that everything would be taken care of. I wouldn't have to worry about the drainage problems. They built a house, what did I get left with? Nothing other than a mud pile, mosquito infested area. Nobody came and helped me fix it. I fixed it myself. What I want the committee to know, nobody, nobody, everything that is introduced here is nothing but lies. There is nothing in their truth to it. If you think anybody with the right mind to have a house over \$200,000 which is our house will be living with a swamp in the back they have lost their mind because that's not true. Nobody wants swamps in their backyard. What I did in the backyard I did everything possible to make it better. To let it drain constantly. I do have videos here to show you stages when it rains, it pours, it fills with water. The water level is about this high when it rains, but it drains. Less than 24 hours after it rains, I can bet you. The drain that we have in our backyard it drains better than any drainage system in Evansville. Not to one, any. We are so (inaudible). You all have heard about the drainage problems on the east side, it's not new. It is constantly like this, everybody complains about drainage. We do not have a drainage problem, it's draining. His problem is not the drain, this is secondary. His problem and his wife's problem is the tree because it drops leaves on his yard. That's his problem. He is hiding behind this story. I have letters from him, he has sent me letters several times. He never, ever mentioned that we were obstructing, he always mentioned the leaves are getting in his gutter, the leaves his wife is having the back surgery and she cannot bend and clean up. That kind of stuff he always says. He never mentioned it was blocking the drain. This is a new development. He figured that as a last hurdle I was going to accuse him that he is blocking the drain. By the way, for the record the tree was planted in 1990, way before he moved to our neighborhood. When he moved in the tree was there. He knows, he has pictures of it.

President Mourdock: Okay, Mr. Hawa, I think we're getting a good feel for your situation here.

Fouad Hawa: Okay.

President Mourdock: Let me just state what perhaps I should have said at the outset of this, but the three of us who were elected as County Commissioners never imagined when we ran for this office we would be a position--

Fouad Hawa: Judges.

President Mourdock: --at times to serve as judge, but Indiana law has changed to put us in that situation, so we're trying to make the best of it and we're trying to keep this orderly, so thank you. Now, anyone else care to make comments? If so, please state your name and address.

Fouad Hawa: Before you start that--

President Mourdock: Very briefly.

Fouad Hawa: Very briefly. In the letter the Building Commission sent you'll notice in his recommendation it does say that his gutter drain has to be in the flow of the water, his does not. It goes directly, 90 degrees angle, in the flow of the water. He does not. I think in one of the pictures you have you can see a picture of his drain straight out. This is the drain, his is 90 degrees.

President Mourdock: Okay, thank you, Mr. Hawa. Sir.

John F.W. Koch: My name is John F.W. Koch. I reside at 201 Thompson Avenue. I am the one that submitted the petition to the Drainage Board that the tree at the southeast corner of Mr. Hawa's property be removed. I respectfully take objection to Mr. Hawa's statement that everything we have submitted to you is a lie. That is not correct. We did...Mr Hawa has not mentioned that we repeatedly offered to have the tree removed at our expense. With his permission we would have removed the tree. The tree does deposit leaves in our gutter. It was leaning on...it was onto the house to a point where it did rub the roofing. We had it trimmed and then Mr. Hawa has subsequently had it trimmed, but it is not...that is not the point. The point is that we wish to make is that the tree is in the drainage. My house is built on the building line and that is according to the approved plot of Summit I. The house is on the building line and ten feet to the west of my house is a utility easement and I full well know that should the utility come through there and wish to disturb that ten feet they have all right to do that. We had initially a rubblestone retention on the slope that was put in by the building. The previous owner to Mr. Eskridge's house, which Hawa said was his brother, was not satisfied with that. He dug a trench along the bottom of the retaining stone and as a result when the water came through the stones rolled off and into the ditch. I had the versalock wall installed because the cue factor of a rubblestone wall is much more severe than is a smooth factor, if you know what I mean. The water can flow against the smooth wall much better than it can against the rubblestone riprap and it does. The tree, however, is still in the drainage right-of-way and it is not legal to be in that drainage right-of-way and after repeatedly asking Mr. Hawa to remove the tree because it was a bother to us and a bother to the drainage way we filed this petition and respectfully request that you judge that on its own merit that the tree is in the way. I won't get into the matter of Mr. Hawa's conduct with my wife. The conduct such that he called her a bitch. I won't

get into that matter, but we have at all times tried to have been good neighbors and do things in an orderly manner. For some reason we can't accomplish that.

President Mourdock: A question for you, Mr. Koch.

John F.W. Koch: Yes.

President Mourdock: The picture that Mr. Hawa showed us, your wall, and I lost track of the dates already. When was the wall put in? What did you call it, the rubblestone wall? The versalock or something.

John F.W. Koch: No, the versalock wall was put...what? A year ago or two years ago at the most.

President Mourdock: Okay, and it does--

John F.W. Koch: It replaced the rubblestone that was put by the contractors.

President Mourdock: Okay, and there is no scale on the photo, just roughly how high a wall is that?

John F.W. Koch: How high is the wall?

President Mourdock: Yeah.

John F.W. Koch: I would say the wall stands about this high.

President Mourdock: Thirty inches or so?

John F.W. Koch: Yeah, uh-huh. I think we had pictures that we have attached to our report.

President Mourdock: Okay. Has the water on any occasion, and I realize it hasn't been there that long, but has the water gone over the wall at all?

John F.W. Koch: Never, never. The house was built by the contract in accordance with the plot that was filed and approved by the County Surveyor. At the time we built the wall I spoke with Mr. Lehman and it was satisfactory that we do that. I do not have a letter to that effect.

President Mourdock: Okay, alright, thank you. Questions or comments?

Commissioner Jerrel: No, I did go out and inspect the area. I did walk...it wasn't raining, but I did walk the area so I am familiar with it.

Commissioner Tuley: I know where you're talking. I didn't actually go walk it, but I know the general area.

Fouad Hawa: If anybody wants to see a video of the area when it's raining and when it's dry I have it right here.

Joe Harrison, Jr.: That's fine.

Commissioner Jerrel: I'll look.

Fouad Hawa: It has a screen on it.

President Mourdock: If you're going to say something, ma'am, you need to come to the mike and please identify yourself.

Fouad Hawa: When it's raining and when it's dry.

President Mourdock: Hold it, time out.

Evangeline Hawa: I'm Mrs. Hawa and I've never met the neighbor.

President Mourdock: Okay.

Evangeline Hawa: So just to say I've never talked to him face to face. Have I met you?

John F.W. Koch: No, ma'am, I've never met you.

Evangeline Hawa: We have never talked face to face so I have never discussed any of the issues with him. He has never come to me and ever talked to me. You know, I would be happy to speak with him. His wife won't even look me in the face so I have never spoke to her either, ever.

President Mourdock: Okay.

Evangeline Hawa: Never. Just to say, you know, if he wants to come to me and talk to me that would be fine. You know, I would be happy to entertain him or whatever, but I don't know the man or his wife.

President Mourdock: I understand that and I hope you understand our point here is to deal with it as a drainage issue--

Evangeline Hawa: I'm just saying that he said on numerous occasions he has addressed us.

President Mourdock: Ah.

Evangeline Hawa: He has never personally addressed me. I have never talked to the man.

President Mourdock: I understand your point.

Evangeline Hawa: Just so you know that I haven't said anything.

President Mourdock: Okay, thank you, Mrs. Hawa. Sir, did you have a comment?

Bill Jeffers: While the Commissioners are viewing the videotape I would like to make a view comments. First of all, with all due respect to Mr. Lehman and the letter that Mr. Hawa entered into the record, I need to take issue with it. It says:

"Our response to them has been the fact that Summit Place has no drainage easement along the west side and the street and that lots along this area due to poor planning by approving agencies were allowed to

totally drain onto an adjacent subdivision.”

In our files we have this preliminary drainage plan from 1979. It's dated March 26, 1979. It was submitted by Morley & Associates, Incorporated on behalf of W.C. Bussing for the property that subsequently became Williamsburg on the Lake and Summit Place. It clearly shows a drainage swale on along the western line of Summit Place and Williamsburg on the Lake.

President Mourdock: Put you finger, Bill, on which lot we're talking about here in this whole matter.

Bill Jeffers: Well, it doesn't have the lot numbers because this is a preliminary plan, but it does show Lant Manor or Lant Place which also was...this drainage plan covered Lant Manor, Williamsburg on the Lake and Summit Place. It was done by one developer for all that land that he was splitting into a planned development. Lant Manor is standard residential single family dwellings. Williamsburg on the Lake is an apartment project with a lake used for detention and then Summit Place is a PUD, planned unit development, that was originally conceived to be duplexes and fourplexes, but ended up being single lots but with specific building lines that included...I have another plan for that over there, slightly different from this one that allowed persons such as the Kochs to build their house exactly the way they built it because it is a PUD. Their unit is approximately right here, so the ditch behind the Hawas' house is approximately where the word place is for Lant Place.

President Mourdock: Okay, alright.

Bill Jeffers: I just went down and pulled this so I could scale it out and put the exact marks if I had to for your next meeting. But it does show that the cross section of the ditch along the backside of the property line shared by the Kochs and the Hawas is noted as Section BB. If you look at Section BB on the plan it says that 20 feet of the drainage easement and the swale shall be on the Hawas' side of the property line and five feet shall be on the Kochs' side of the property line, but it does not call out what the easements are going to be called because this is a very preliminary drainage plan. In fact, it was not at a time when we had any kind of stringent review or ordinances or anything else. If you would like to look at that closer, what I said at the microphone basically was this is the approximate location of the Hawas. This is the approximate location of the Kochs, although it's not going to be an apartment project with a parking lot like that. Here is the swale. Here is the section that calls out BB, which is here, and it shows that on this side, the larger side, is going to be 15 feet of open ditch and the smaller side is going to be five feet. Then subsequently--

President Mourdock: How close, Bill, is the current wall to this center line as you understand it?

Bill Jeffers: The foot of the wall is within six or eight inches of the center line of the ditch.

Fouad Hawa: Yes.

President Mourdock: Okay.

Joe Harrison, Jr.: Are you going to be introducing...do you want this introduced into the record?

Bill Jeffers: Yes, sir.

Joe Harrison, Jr.: As well as your original report?

Bill Jeffers: I'm introducing this as a reply or as comments to be attached to Roger Lehman's information.

President Mourdock: Let me deal with something kind of procedurally here. Joe, we've got a lot of facts before us with this. You're shaking your head, too.

Joe Harrison, Jr.: Yeah, I think there are a lot of facts, but I think the main thing is the tree. That's the issue.

Bill Jeffers: The tree was identified in the--

President Mourdock: Do you have a copy of the ordinance or the statute from which we are dealing?

Joe Harrison, Jr.: Yes, yes.

President Mourdock: Right in front of you?

Joe Harrison, Jr.: Yes.

President Mourdock: Would you read that, please?

Joe Harrison, Jr.: The statute?

President Mourdock: Yeah, as far as what is termed as adversely affected or if the word damage is in there. Define what is the course that causes this whole thing to begin to unfold.

Joe Harrison, Jr.: Well, it has to be drainage obstruction, is the key term. It is my understanding that drainage obstruction has been identified as the willow tree. That's the sole drainage obstruction that is at issue before this Board.

Fouad Hawa: Sir, I'm not sure this is the issue. The issue that he identified--

Joe Harrison, Jr.: No.

President Mourdock: Excuse me, it is the issue in the manner of what this Board has to deal with.

Fouad Hawa: Yeah, I understand.

President Mourdock: This is the Drainage Board.

Fouad Hawa: What I am saying is, is it an obstruction?

Joe Harrison, Jr.: Well, but that is for this Board to decide.

Fouad Hawa: Right.

Joe Harrison, Jr.: The obstructing item has been identified by--

Bill Jeffers: Right now it's an alleged--

Joe Harrison, Jr.: Yes.

Bill Jeffers: According--

Fouad Hawa: Exactly, thank you.

Bill Jeffers: --to the ordinance at this particular time and space it's a current...it's alleged.

President Mourdock: Okay, that's the key word I want to deal with. At this point in time the Surveyor's Office is reporting that there is a tree and some dirt there that is an alleged obstruction.

Joe Harrison, Jr.: That's correct.

President Mourdock: Short of ruling on these facts, what can this Board do as its next steps to fact find before passing judgement?

Joe Harrison, Jr.: Well, the only thing it can do is in order to find in favor of the petitioner the Board must find an obstruction of a drain or natural surface watercourse exists and the removal of the obstruction will promote better drainage of the petitioners' land and not cause unreasonable damage to respondents' land. Then it goes on to say, the statute, if the obstruction exists under A above, which is identified, then the Board finds by a preponderance of the evidence that the obstruction was intentionally caused by the respondent the Board can either direct respondent to remove the obstruction or direct the County Surveyor to remove the obstruction at respondents' expense or may order a suit against the respondent. If the Board finds that there is an obstruction, but the Board finds that the obstruction was not intentionally caused by the respondent the Board can then order removal of the obstruction by either authorizing the petitioner to remove the obstruction, direct the County Surveyor to remove the obstruction, have the petitioner bear the expense of moving the obstruction. If the Board is unable to make any of the findings, then the Board must deny the petition. But the key is whether or not an obstruction is found. Once you cross that threshold you get to determine whether it was intentional or unintentional.

President Mourdock: But I think I heard you say there are two keys and it's not and/or it's one and the other. It is the key of was there the obstruction there and you said does removal of that obstruction significantly change the drainage of the petitioner without adversely affecting the respondent. I mean, that's paraphrasing it, but isn't that pretty close?

Joe Harrison, Jr.: Sure, but, again, you have to have an obstruction first.

President Mourdock: Right.

Joe Harrison, Jr.: If no obstruction is found you don't get to that removal question. It doesn't matter about removal--

President Mourdock: Read again. Keep going then through what you had because the

“and” I think is very important.

Joe Harrison, Jr.: Again, in order to find in favor of the petition the Board must find obstruction of a drain or natural surface water...that obstruction of a drain of natural surface water course exists and--

President Mourdock: And?

Joe Harrison, Jr.: --removal of the obstruction will promote better drainage of the petitioners' land and not cause unreasonable damage to respondents' land. The first key is whether or not there is an obstruction. It's not or it's and.

Commissioner Jerrel: I have a question. Should anything be in a drain? In the drain, should anything be allowed to be put in there?

Bill Jeffers: Nothing should be allowed to be put in the drain that represents a partial or total obstruction to the flow of the water nor should anything be put in the drain that significantly reduces its volume, capacity or ability to hold and convey water. That is so stated and paraphrased on both plats for the subdivisions.

Commissioner Tuley: Technically, if this was a stick stuck in the middle of that, that's an obstruction.

President Mourdock: Technically.

Commissioner Tuley: Technically.

Fouad Hawa: (Inaudible.)

Bill Jeffers: The next plan that is on file in our office is one month after the one I presented to you and it's from June...excuse, 18th of April, 1979 and it clearly shows Lant Place final plat with the 146 Lant Lane shown with Lot 105 with a 20 foot drainage in the backyard adjacent to the common property line, the subject of this petition, and with the statement “wide, shallow drainage swales with controlled outlets within the drainage easements are designed with storm water runoff control and no earth filling or building structures shall encroach upon these drainage easements”. That's clearly stated on the plat of the property that includes the property owned by the Hawas.

Joe Harrison, Jr.: Are you wanting to introduce that as well?

Bill Jeffers: Yes, sir. I hadn't intended to introduce all this except that these items have come up in the form of letters. One saying that no plans exist from a...due to poor planning by approving agencies. I take issue with that.

Commissioner Tuley: Go beat up Roger.

Bill Jeffers: Plans are on file and were approved by the planning agencies in force including the Building Commissioner himself in 1979 and to the letter also introduced by the Hawas saying they had voiced their concerns to Mr. Clements, etc., about the subsequent project across the ditch which also has a plan on file in our office and other offices that reviewed it in this building dated 1981 that clearly shows Lot 53 owned by the Kochs immediately adjacent to 146 Lant Place all of which was part of one parcel of property divided into these three developments and it clearly shows that the houses are

going to be built on these small lots very close to the lot lines because this is a PUD--

Commissioner Jerrel: Tell me what that means.

Commissioner Tuley: Planned unit development.

President Mourdock: Planned unit development.

Bill Jeffers: --and it shows there is a five foot easement, excuse me, a ten foot easement on Mr. Koch's side of the property and it shows the direction of drainage along with grading elevation ticks at critical points in the pavement and on the lots. So the import of the dirt allegedly imported from the construction of highways in the area was planned to take place and this was planned to be constructed as shown on these three plans that I am now submitting as part of this report. Also on this plat it says basically the same warning, "nothing is to placed within the drainage easement". The reason that these plans were developed was because this was in the county at the time that it was constructed. It is now in the city, but at the time it was constructed in the county the County Surveyor had an informal gentleman's agreement with the developers that was reinforced by a casual action on the part of the Drainage Board that all development in this area would detain water before discharging into the legal drains known as Crawford Brandeis Ditch immediately across the street from these developments and Mr. Clements, Mr. Bussing and the other developers agreed to this and they did provide storage swales, storage lakes and they did reduce the--

President Mourdock: And this swale between these two properties was one of those intended structures?

Bill Jeffers: Right. Mrs. Koch has explained to me she said, you know there must be something down the way that is obstructing this ditch in my backyard because every time it rains hard the ditch fills all the way. I said, has it ever overflowed into your house? She said, no. I said, do you know if it has ever overflowed into the Hawas' swimming pool? She said, I don't think so, but it fills all the way to the top of the banks and it stays like that for 30 or 40 minutes and then all of a sudden it just drains all the way out. I said, well, hey somebody did something right out there, you know, because she described exactly how a detention swale is designed to operate and this one is operating the way it is supposed to. However, continual filling of it and obstruction of it will cause that--

(Mr. Hawa stating inaudible comments from audience.)

President Mourdock: Any other questions from the Board here? We've got a bunch of facts. Sir, do you have a comment? If so you need to go to the mike and state your name, please.

Chad Klenck: My name is Chad Klenck, I'm friends with the Kochs.

President Mourdock: Do you live in one of the houses close by?

Chad Klenck: No, I do not, but we were the company that constructed the versalock...I'm part of the company that constructed the versalock wall for the Kochs.

President Mourdock: Alright.

Chad Klenck: And have witnessed many of these situations between these neighbors. If people are allowed to import dirt in a drainage easement who is to say when is too much. My point is any,--

Bill Jeffers: Right here.

Chad Klenck: --any is too much. If someone states that there are no obstructions allowed that means no obstructions whether it's a stick or whether it's a tree or whether it's a...you know, no one is to say who allowed the Hawas to build their fence...he states the water comes up on his fence. Well, it's in a drainage easement. That is the purpose of the detention swale to hold the water until it has a chance to evacuate the area. So if it comes up on the fence it is working as designed. It's not as a direct result of any type of wall built by the Kochs.

President Mourdock: Let me clarify one point because I'm not sure I understand this and this seems to be important. Bill, the cross section you showed us in not this one, but the prior one where it had the swale showed 15 feet on one side and five on the other, someone had hand drawn a sketch on there that showed it looked like the location of the wall about in the center line of that swale. Is that what you think? I mean, is that pretty accurate as best you can tell us?

Bill Jeffers: As best I can tell without laying out a survey line the wall is within six or eight inches of the property line and the property line is within six or eight inches of the center line of the ditch.

President Mourdock: Okay, ideally it was designed to be the center of the ditch, I presume, the property line?

Bill Jeffers: It appears to me that the center line of the ditch is slightly west of the property line. The center line of the ditch was designed to be on Mr. Hawa's side of the property line by six or eight inches, it appears.

President Mourdock: Okay, thank you.

Bill Jeffers: And then the wall is within six or eight inches on the east side of the property.

President Mourdock: Okay, any questions from this Board regarding the facts we've heard?

Fouad Hawa: (Inaudible.)

Joe Harrison, Jr.: Yeah, that's fine.

Fouad Hawa: I just want to show you these two pictures.

Joe Harrison, Jr.: Can they make copies of those?

Fouad Hawa: You can make copies. I just want to show Mr. Jeffers he has no clue what he is talking about. This is...the fence is about maybe two to three inches from the property line, no more than that. This is how the ditch fills up when it rains and he stated himself that Mrs. Koch told him that after 30 or 40 minutes there is no water and here I am standing here defending that we have an obstruction when there isn't an obstruction.

President Mourdock: I think you and Mr. Jeffers were saying about the same thing there. I don't think you're in disagreement.

Fouad Hawa: Well, he is saying that we have obstruction, but you have to identify obstruction if there is something to obstruct, but there is nothing obstructing.

Commissioner Tuley: By definition.

Joe Harrison, Jr.: The video tape.

Fouad Hawa: Yes.

Joe Harrison, Jr.: Do you have another copy?

Fouad Hawa: I can make you a copy and give it to you.

Joe Harrison, Jr.: Okay, why don't we refer to that as exhibit nine whenever he supplements that and we'll refer to these two pictures as respondents' exhibit ten and eleven, the last two photos.

Fouad Hawa: I would be glad to make you a copy.

Joe Harrison, Jr.: We'll identify that as number nine and the County Surveyor may want to reiterate what his recommendation is if any to this Board and then this Board can consider the same this evening or take under advisement and rule at our next meeting next Monday.

President Mourdock: And that's where I am--

Bill Jeffers: Whenever I...excuse me, I'm sorry.

President Mourdock: I was just going to say I think that's where we are. We are either going to act on this or we're going to take it under advisement. I think we've got quite a few facts and, Bill, you tell me if this inaccurate, but I think what your recommendation is to say that there is an obstruction there in the form of a tree and there is an obstruction there in the form of some dirt. That's your official finding from your summary, correct?

Bill Jeffers: Yes, sir. I usually...because I did not use survey instruments to measure the distance of the wall from the property line nor did I use survey instruments to measure the distance of the willow trees from the property line I would like to err in the favor of a greater distance rather than a closer distance. What I say within six or eight inches that can also be two or three inches because two or three inches is within six inches.

President Mourdock: I understand.

Bill Jeffers: So that...I want to clarify that. Number two, I can see the property corners at both ends of Mr. Hawa's property.

President Mourdock: Were there pins?

Bill Jeffers: There were iron pins there. They were witnessed by t-bar fencepost. Those

are in the pictures. If you'll look at the picture you'll see the t-bar fencepost. The t-bar fencepost is within two or three inches of the property corner, the tree is sitting right next to the t-bar fencepost. You can see that in 1990 or '92 that tree was a twig. You can see that six or eight years later it has a diameter nearing a foot in diameter, so I am assuming, being a willow tree planted right smack in the middle of a ditch will all the water it ever wants to drink it will be soon two feet diameter. So when I say it's a partial obstruction now, yes and if a person is allowed to plant one that means a person will be allowed to plant the second one right next to it and a third one right next that and a fourth one right next to that and then you have a fence of willow trees growing together. I'll read for you what a drain is:

"A drain refers to a mutual drain as defined by statute."

And that is a drain that serves more than two parcels of property owned by more than two individuals which was established by mutual consent of all property owners that it serves. This is a drain. An obstruction is defined in the statute as:

"A condition that exists within or near a drain and prevents or significantly impedes the flow of water through the drain and includes the presence of one or more objects inside or near the drain, a quantity of material inside or near the drain or damage to the drain that prevents or significantly impedes the flow of water through the drain..."

...etc., it's all in the book. So our office is identifying the two willow trees and a certain quantity of dirt all placed by Mr. Hawa. He has acknowledged that he placed them. He has pictures that shows the exact placement of these on his property and that is what we are identifying as an obstruction in our report.

President Mourdock: Rough guesstimate, how much dirt are we talking about? Two cubic yards?

Bill Jeffers: I would have to use survey instruments to gauge the amount of dirt, but I'm going to guess less than six cubic yards and greater than two cubic yards.

President Mourdock: Okay, what is the will of the Board?

Fouad Hawa: One last moment. Mr. Jeffers, which I told him that, why I put the dirt in there. He acknowledged I told him twice and he still fails to acknowledge it. He is hiding the facts. The reason I put the dirt, I told him that. I brought a couple of wheelbarrows, maybe three at the most.

Bill Jeffers: If you want the Board to know why you put it you might as well put it on tape.

Fouad Hawa: Yeah, I'll tell you why. I told him that when he came to house. I looked at his report, it wasn't there. I called him after I got the report. He said, oh, yeah, that's right, but I forgot to put it in, but you have a chance to say it at the meeting. The reason I put the dirt, when they built that wall in my backyard I went...I said to his wife, I said, ma'am you're using my property to build your wall, would you please stay away from my property. They never (inaudible) happy. This gentleman over here, he thinks...claims it's his company. I told him I don't want anybody to come on my property to build his wall. They didn't listen, they continued building the wall. I called the police. There is a record in the Police Department, I called the police. President Mourdock: The trespassing issue, I'm sorry, the trespassing issue isn't the drainage issue that we need

to deal with.

Fouad Hawa: I know, but I'm going to get to the point.

President Mourdock: Or alleged trespassing issue.

Fouad Hawa: Okay, let's just get to the point. The point is he built his fence, he made damage to my property with his heavy equipment that he brought in the blocks. I ask him, are you going to fix my property? The dents, tracks and everything. His wife said, no, we're not going to fix it. I had to fix my own, his damage to my...that's what Bill fails to say. I did bring dirt, but the reason I brought the dirt was to fix his damage to my property that's all I did.

President Mourdock: Okay, thank you, Mr. Hawa. The third time ought to be the charm. What is the will of this Board? Are we going to act on this, take it under advisement for further information?

Commissioner Jerrel: I'm prepared to make a motion, but I don't want to make a motion and reduce the time if you want to take--

Commissioner Tuley: I don't know what other information is out there.

Commissioner Jerrel: I mean, are you prepared for a motion?

Commissioner Tuley: I am. I mean, I don't know what other new information I'm going to get.

Commissioner Jerrel: Okay, do you feel the same?

President Mourdock: Yeah, I'm ready for a motion.

Carl Klenck: I just have one more comment.

President Mourdock: Mr. Klenck.

Carl Klenck: I'm not going to--

President Mourdock: And I hope it deals with drainage.

Carl Klenck: Absolutely, and that is my point. Okay, so the flow line of a ditch is designed by invert elevations, okay. Simply because someone installs dirt at this elevation which is below elevations upstream it doesn't mean it doesn't impede the progress of the water, so who is say, you know, aren't ditches supposed to be flat? Aren't ditches supposed to have as few, you know, humps and valleys which would allow it to go faster? So who is to say if upstream or, you know, in the middle which the Hawas are at, just because it drains doesn't mean it doesn't impede the draining. That's the purpose of the Drainage Board, you know, just because it drains that doesn't mean it drains correct. If you do not approach this situation now where does it stop? As Mr. Jeffers said, when these trees get large, you know, you have the opportunity to remove them now. What happens when they're two feet in diameter?

Bill Jeffers: Like they say a picture is worth a thousand words. What Mr. Klenck's words are indicating is what the pictures I submitted show clearly. Here is the imported dirt

which has raised the flow lines some number of inches and is holding this amount of water upstream of the Hawas' property.

Fouad Hawa: Would you (inaudible) Ken Eskridge's property.

Bill Jeffers: This is the dirt that he brought in that he says was to repair his property and you can clearly see that forces the water up against the wall and holds this water back upstream on other property. I'm saying the removal of this dirt will significantly improve the--

President Mourdock: Excuse me--

Bill Jeffers: --drainage on other people's property without damaging Mr. Hawa's significantly.

President Mourdock: Other people's property defined as those who had the drainage easement further upstream?

Bill Jeffers: Those who share the mutual drain and the benefits thereof. Here is the tree at the other end that Mr. Wink says he would like to see ground off below ground level and you can see it is directly in the middle of the ditch and is holding this quantity of water back while the rest of the ditch is dry. The removal of that below ground level will allow this pool of water to flow. I'm saying that the removal of this willow tree will significantly improve the flow line of the ditch without adversely or significantly...adversely affecting...whatever the statute there says.

Commissioner Tuley: Right here, not cause unreasonable damage to the respondents.

Bill Jeffers: Okay, without unreasonable damage.

Fouad Hawa: We have a ditch that nobody is complaining about so why are we fixing something that is not even broken?

Bill Jeffers: Sir, I am responding to a petition that the Board received and ordered our office to file a report on.

Fouad Hawa: Because both neighbors on both sides are saying there is not a problem, both neighbors.

President Mourdock: Again, is there a motion? Where are we going?

Commissioner Jerrel: I wish I could make a motion that would solve the animosity that has developed over this, but this Board has no other course but to ask for the removal of the obstructions in the drain and I so move.

President Mourdock: If you would, please state it in such a way that we can affirm it with the roll call vote.

Commissioner Jerrel: I move that the willow trees be removed from the drain along with the excess dirt.

President Mourdock: Okay, there is a motion. Is there a second?

Commissioner Tuley: For purpose of a roll call, yes.

President Mourdock: For purpose of a roll call. Okay, motion and a second. So in the positive that we would respond to the petitioners' request, Commissioner Tuley?

Commissioner Tuley: I think there is...I think everybody in here is going to agree there is a whole lot more to this than an obstruction from both sides. However, and I want to vote with the defendants, however, I don't think they deliberately planted a tree there, I mean, to block it. There is no question they deliberately planted a tree. There is the question about if we say this is not an obstruction then the next neighbor plants and tree and as you have indicated down the line if other people plant trees or ten years from now when that tree gets to be six feet, so I have vote for the petitioner.

President Mourdock: Commissioner Jerrel?

Commissioner Jerrel: Yes.

President Mourdock: Excuse me, Joe, did you...?

Joe Harrison, Jr.: The only thing I want, if as far as the petition is concerned you have to find...if you find an obstruction you have to find whether it is intentional or not and then what remedy would be next after that.

Commissioner Jerrel: May I amend my motion?

Joe Harrison, Jr.: Yes.

Commissioner Jerrel: I do not believe it was intentional. I think it was unintentional.

President Mourdock: Okay, is the second amended?

Commissioner Tuley: Second, yeah.

Commissioner Jerrel: And my vote was yes.

President Mourdock: So Commissioner Tuley voted yes to remove the obstruction. Commissioner Jerrel voted yes to remove the obstruction and I would vote no. Obviously, two to one says it needs to be removed, but in looking just to justify my vote here which I don't need to do, but I'm going to do, I said it three times to define where the center line of that swale was with the wall that is there. Three times I asked that question and the most that I ever heard was that it might be as much as foot and a half or two foot from the center line which is where that wall is. That's the most, so I'm concerned that there isn't some damage on both sides here in that what was designed and approved by those regulatory agencies, Bill, that you spoke of as a drainage swale has, in fact, been impacted.

Bill Jeffers: You didn't ask me that, though.

President Mourdock: I asked you where the brick--

Bill Jeffers: You asked me where the wall was.

President Mourdock: That's right, that is exactly what I asked you.

Bill Jeffers: Six to eight inches of the property.

President Mourdock: Center line of the swale. Within six to eight inches of the--

Bill Jeffers: It's within a foot of the flow line.

President Mourdock: Right, which you said was also intended to be within six inches of the swale, so we don't disagree. Well, having voted yes to remove the obstruction two to one.

Joe Harrison, Jr.: The next issue would be at...if you find it is unintentional then it is either at the county's expense or at the petitioners' expense that the removal of the dirt will take place and the removal of the tree will take place. Is that not right? Is it solely at the petitioners' expense?

Bill Jeffers: I think they now share the expense.

Joe Harrison, Jr.: No, there is a statute on that. I've got it...where is that.

President Mourdock: Pat had that a second ago.

Joe Harrison, Jr.: I'm sorry

Commissioner Jerrel: Here it is.

Bill Jeffers: The reason I did not address the wall in the report, it was not identified in the petition.

President Mourdock: I understand that.

Bill Jeffers: The respondent did not file a petition.

President Mourdock: I understand that totally.

Bill Jeffers: And the Building Commission in all his wisdom along with these other letters issued a permit for the wall--

President Mourdock: I understand.

Bill Jeffers: --without investigating the plan.

Joe Harrison, Jr.: If I may go--

Commissioner Tuley: The only problem I have with this--

Joe Harrison, Jr.: I'm sorry.

Commissioner Tuley: --whole thing is are you mad at these people or are you mad at the Building Commissioner because I keep feeling like there is a little more animosity directed at these people because of the letter from the Building Commissioner.

Fouad Hawa: Thank you.

Commissioner Tuley: I have a little bit of trouble with that.

Bill Jeffers: Oh, no, I am not upset with Mr. and Mrs. Hawa whatsoever. I have no animosity towards the Hawas.

Commissioner Tuley: Okay, so it is at the Building Commissioner?

Bill Jeffers: The Building Commissioner has overlooked several items here--

Commissioner Tuley: I just wanted...I've already voted, but I wanted to make sure that--

Bill Jeffers: --and in his letters the issuance of the permit in his letters to Mr. Hawa have compounded or (inaudible) the job harder.

Joe Harrison, Jr.: If I may go further, this is what the next step is. The Board, they found that the obstruction was unintentional therefore the Board can order the removal of obstruction by these several ways, one of several ways:

- < Authorizing the petitioner to remove the obstruction on his own at his own expense.
- < Direct the County Surveyor to remove the obstruction either of which would be at petitioners' expense.

It goes on to say before entering that order the Board must consult with the petitioner, respondent and County Surveyor. The Board can require petitioner to bear expense of removing the obstruction including monetary value of harm and inconvenience that respondent will incur as a result of the removal of the obstruction or if any other land is benefitted by the removal of obstruction the Board can spread out the cost among benefitted parcels.

Commissioner Jerrel: I would like to make a motion at this time that we reserve that final decision until next Monday night and I have an opportunity to speak with Mr. Jeffers and determine approximate costs.

Commissioner Tuley: If that's a motion, I'll second.

Commissioner Jerrel: It's a motion.

President Mourdock: That I will so order.

Fouad Hawa: May I ask a question. (Inaudible) second choice, can I go to court?

Joe Harrison, Jr.: After this decision--

Fouad Hawa: Do I have any rights?

Joe Harrison, Jr.: Yeah, after this decision is final, yes, you can go. I mean, the final determination has not yet been made by this Board as far as the issue of who is going to pay the cost for the removal of the obstruction.

Fouad Hawa: Because I can bring pictures and pictures of other trees in ditches all over town and I am being singled out over here.

Joe Harrison, Jr.: Well, this Board has already made its decision on the obstruction, it's just how it is going to proceed further and they're not going to take any other evidence on that issue. They're just going to reserve for themselves the final decision as to how the cost is going to be disposed of.

President Mourdock: Let me just add one other thing as we wrap up here and I meant to say this a moment ago when I was justifying my vote. Again, and I hope everyone in this room appreciates what we just went through. This law has only been in effect less than a year and a half. I don't know that many counties have had many instances in having to deal with the administration of this law. I think this is the third time we've had to do it. Each one of these gets more and more difficult. The reading, and, again, I'm justifying my vote here, but so you all understand it my reading of what that says, says that you have to have several things one of which is an obstruction and that the removal of that obstruction is going to effectively change the drainage on behalf of the petitioner. I heard the petitioner say that the water has never come over the wall, never, and by removing that dirt if it's never gone over the wall thus far how can we somehow enhance the drainage of the petitioner, so just for the record I add that statement. To me, that's not an and/or that is an and.

Commissioner Tuley: And I've leaned this way the whole thing. The only thing that bothers me is the plat says you shall not plant anything in that drainage and that's what this was about.

President Mourdock: But by the inverse of that, Pat, the respondents almost have the obligation to go out and plant grass otherwise you're just going to have gully erosion through there. I mean, what are you going to plant, you know? I mean, I'm not arguing with you, I understand.

Commissioner Tuley: I know, this is the most difficult, as you said, of the three. I'm sitting here...I don't think they did anything on purpose to impede or do anything and actually probably by virtue of the fact that they did not plant an Oak tree they did not plant a Blue Spruce, they planted a Weeping Willow for the sole purpose of sucking up any excess water.

President Mourdock: Right, and in addition to that they did that before all of the construction took place on the other side of the line and in addition to that it seems there has been no damage at all which again, I'm acting more like court here than a Drainage Board when it comes to that drainage issue. It's a tough one.

Commissioner Tuley: I agree. I mean, I didn't cast the vote because that's the way I wanted to vote. I cast the vote because under law I thought that's what I had an obligation to do. I'm not arguing with you either. I'm just kind of...I feel bad for both of these people more so because we have neighbors here that already came into this room with bad feelings towards each other and are only going to leave here with worse feelings.

President Mourdock: And towards us.

Commissioner Tuley: And towards us.

Fouad Hawa: Can I ask one question? If we remove the trees and we start having flooding who is responsible for that? Is the Commission responsible for it or they are responsible for it? Right now I am telling you we do not have a problem. If you take the

trees down we will have a problem. My neighbor next door is telling me I don't have a problem which is the one on the flow of the water. The next door down there is not a problem. He himself is telling you I don't have a problem. He is three feet above ground, so who has a problem? The Commission has a problem? I don't know who has a problem.

Joe Harrison, Jr.: This is a state statute and they're following the statute and they sit as a decision maker, an administrative decision maker with respect to this petition. They would be like any other tribunal who makes a decision, so that will be for others to decide and you may have to seek other advice, but this is essentially a legal tribunal here this evening for this issue.

Commissioner Tuley: Just so Mr. Hawa knows, this isn't the end of the line. I mean, you do have--

Joe Harrison, Jr.: No, you have legal rights and the statute that this has been going under I'll write down the statute site and give it to you in case you want to look at it and you can go from there with it. But, again, this Board has not finally resolved this issue, but apparently it will at its next meeting next week.

Fouad Hawa: So I need to come next week?

Joe Harrison, Jr.: If you so desire. If not, a decision will be rendered and sent to you.

President Mourdock: Motion for adjournment.

Commissioner Jerrel: Motion to adjourn.

Commissioner Tuley: Second.

President Mourdock: So ordered.

The meeting was adjourned at 8:28 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
Fouad Hawa
Evangeline Hawa
John F.W. Koch
Chad Klenck
Members of the media

**Vanderburgh County
Drainage Board**

—

Richard E. Mourdock, President

—

Bettye Lou Jerrel, Vice President

—

Patrick Tuley, Member

**Vanderburgh County
Drainage Board
September 28, 1998**

Call to order

President Mourdock: Are you ready, Charlene? Good evening, we'll call the meeting of September 28, 1998 of the Vanderburgh County Drainage Board to order. I think most of you have been here a time or two so you know the format. The County Commission as a whole also acts as the Drainage Board. We do record all of our minutes verbatim, so if you wish to address the Board it is necessary for you come to the microphone and please state your name and address. Our technical staff for the Drainage Board comes from the Surveyor's Office and in particular from Chief Deputy Surveyor Bill Jeffers. We'll go to him in a moment.

Approval of minutes

President Mourdock: First of all we have some minutes from the prior meetings and I'll look for a motion to approve those minutes.

Commissioner Jerrel: I'll move approval of the August 24th Drainage Board meeting and also the special September 21, 1998 meeting.

Commissioner Tuley: Second.

President Mourdock: A motion and a second and I'll say so ordered.

Update on Rasche petition

President Mourdock: Okay, the next item then on our agenda is some old business which deals with the Catherine Rasche matter and, Bill, do you have an update for us?

Bill Jeffers: I have little scripts that I had last month, but I have left them down in my office so as soon as I introduce this into the record I'll go get that so you can follow along on the rest of the subjects. The first item is an update of the Catherine Rasche matter. First of all, I sent this letter to the interested parties, and the original copy I am going to give to your secretary, which informs the interested parties that on August 31, 1998 the Vanderburgh County Surveyor's opinion was that the drain on property owned by Catherine Rasche had not been restored to a condition sufficient to satisfy the order of your Board and it was...I sent this letter after viewing work that had been done by Floyd Staub and inspecting it and concluding that it did not finish the work that was order sufficiently to satisfy the recommendations made in the Vanderburgh County Surveyor's report to your Board dated September 23, 1996. We assumed that your order was based upon that report and we also would like to remind you that your order was upheld by the court.

President Mourdock: The letter that we have in our packets, Bill, from Mr. Staub, September 22nd, I presume then is in response to your letter of August 31st?

Bill Jeffers: I'm not sure, I may have mailed him a copy, but--

President Mourdock: Well, let me read--

Bill Jeffers: --it's a response that I assume was, yes, to my opinion because I expressed

my opinion--

Commissioner Jerrel: Do you have it?

Bill Jeffers: --on the...yes, I have a copy of it.

Commissioner Jerrel: Okay.

President Mourdock: Does what is in his letter...was there something that happened physically to the drainage between the time of your letter and the time of his letter or is his letter just a response to your--

Bill Jeffers: His letter is a response to my stated opinion that is expressed in this letter I just handed to you.

President Mourdock: So as far as you know as of this moment the conditions on the property still coincide with your letter of August 31st?

Bill Jeffers: I inspected it Sunday, the 27th, yesterday between 4:30 and 5:00, and my opinion remains the same as stated in the letter of August 31st and I drove by this morning at 8:00 and didn't see any construction equipment on the site. My opinion remains the same as stated on August 31, 1998 in this letter.

President Mourdock: Okay.

Bill Jeffers: There are interested parties here in the audience who may wish to speak. Like I said, I am going to run down to the office and get my script for the rest of the meeting.

President Mourdock: Okay.

Bill Jeffers: Unless you have further questions.

President Mourdock: Okay. I know there are several members of the Rasche family here. Is there anyone other than the Rasches?

Tom Heerdink: Yes.

Kenneth Rasche: We would like to wait until Mr. Jeffers comes back though.

President Mourdock: Okay, that's fine. Is there anyone else that would like to address this particular petition? Did I see a hand up over here? Sir, would you like to make a statement.

Tom Heerdink: At this time I would like wait until theirs.

Commissioner Jerrel: Okay.

President Mourdock: Well, then I guess we wait until Mr. Jeffers comes back. Why don't we take about a five minute recess, Charlene, if you want to turn off the machine because I think it will be that before Bill comes back.

The meeting was recessed at 6:40 p.m. and reconvened at 6:42 p.m.

President Mourdock: We'll go ahead and reconvene at this time then and, Bill, while you were out of the room we asked for comments and the Rasches asked that you be here when they make their comments and another gentleman wanted to make a comment, but not until after he heard the Rasches, so please come forward.

Bill Jeffers: Sorry for the interruption.

President Mourdock: That's alright.

Unidentified: Do you want my name?

President Mourdock: Sure, and address.

Kenneth Rasche: My name is Kenneth Rasche, I live 505 Brook Meadow Circle, Evansville, Indiana 47711.

Jan Bollinger: My name is Jan Bollinger. I live at 4319 Kratzville Road, Evansville, Indiana 47710.

Kenneth Rasche: Sorry, I'm having a little trouble here with all the documentation. I guess the main thing we want to know is we're trying to rectify the order. The last time we were here, I believe, was in April and we had the understanding that we were going to be able to remove the landscaping, put it back to its original condition, clear out the waterway and then we would be okay. We were also told that Mr. Jeffers would be at our disposal and come make sure we got things back to the proper condition. That was not the case.

Jan Bollinger: What part of this does not meet the requirements? What part of the work that was done doesn't fulfill the order?

Kenneth Rasche: That's the main question.

President Mourdock: Right, let me just ask another question of this Board before we deal with that one which is Mr. Rasche's statement of a moment ago, is that the recollection and consensus of this Board that what their task was was to return the property back to its landscape condition prior to?

Commissioner Tuley: Yeah.

President Mourdock: I think it was.

Commissioner Tuley: Yeah, that's what I think it was. Like Joe is saying, I think that was subject to Bill verifying it.

President Mourdock: Okay, Bill, the simple question is then what that has been done to date does not meet what you see as being the standard that was set out in April?

Bill Jeffers: Your order was that the Rasches restore the open waterway to its condition prior to being filled with dirt, replace an undersized partially clogged culvert in the waterway behind her residence at 20 West Mill Road and clear and clean the waterway downstream of the culvert. The work done by Mr. Staub, I don't have my dates exactly in front of me, but the work done one particular day restored the waterway opening or the waterway to a condition equal to or greater than it's condition prior to filling with dirt. They then placed an erosion control mat and seeded the erosion control mat and

everything looked real good. I thought at that time it probably looked good enough that it would have satisfied the petitioner or petitioners and I was checking some other sites on the north side of the county and went past the next day and I went past the Rasche residence and noticed they were doing some additional work and there were several individuals standing in the yard discussing the work they were doing the next day after the waterway was already finished and I decided not to stop with that many individuals present because I don't really care for impromptu committee meetings. Never found them to be too productive. So I went and called my office from a phone in North Park and they said, well, Ken Rasche had just called and wanted you to come look at the ditch. So I waited until there was no one there, they had all left and gone their separate ways. I went back and Staub's workmen were putting dirt back in the ditch at the order of the Rasches. They put loose dirt back in the ditch and filled the ditch up to a higher level than had been excavated the day before and then put the erosion control back on top of the loose dirt and said that was at the order of Mrs. Rasche and Larry Rasche. I told the workmen, then, well, I am out of this situation altogether. I was satisfied with the work that Ken had instructed them to do the day before. Subsequently I noticed, I think it was Ken who is here present at the podium, who also went out and attempted to clean the culvert out with a shovel and did some very nice waterway clearing downstream of the culvert. He cleared out a lot of brush and made the waterway look a lot better, but it still remains that someone, and I believe it was Mrs. Rasche and possibly her son Larry, ordered Staub to put dirt back into the ditch after it was already excavated because for reasons they can explain to you. In its present condition it does not match the pictures I've seen of the waterway prior to its filling. I also inspected it yesterday, as I said, and the erosion control mat has already begun coming loose even though we've had just a couple of sprinkles in the area since it was in place. The erosion control mat is now bunching up and moving downstream towards the culvert. The loose dirt is subsiding in such a way that there is going to be high and low spots all down through the ditch which shouldn't, I guess, concern me so much as it should the Rasches, but my concern is all the erosion control fabric and the loose dirt will eventually find its way into the partially clogged culvert that is still half clogged and stop it up once more. As far as being at their disposal I've communicated several times with Ken on the telephone and sent him letters by registered mail which I have green cards to show receipt of those letters.

President Mourdock: Okay, Mr. Rasche or Ms. Bollinger.

Kenneth Rasche: First I can explain or actually correct some things. The order, as Mr. Jeffers put it, to put the dirt back in the ditch isn't quite correct. I was the one the approved that. What had happened was Staub had excavated the ditch too far to the south and it swung farther into my mother's property than it had been. This resulted in a deeper ditch than was there and also it resulted in a berm on the north bank which did not exist before. It was not going to be mowable, I don't know if that is a good word or not, you know what I mean. The problem is as you are aware we pointed out last time we've had numerous complaints from various departments. One of them being weed control, so we're trying to make the maintenance of that ditch and the surrounding areas as easy as possible, so we needed to get the ditch back to closer to the way it was. Again, I refer back to the minutes, you know, it was recommended we get Floyd Staub to do the work. They're not the cheapest contractor, but they are the ones that did the original work. They would know best where to put it and I think you have the letter to that effect that it is back to way it was prior to their work in 1996. I'm trying to remember all the issues here. Again, we haven't been able to get these things itemized and detailed so we could address them.

Jan Bollinger: Whether or not Mrs. Rasche or Larry Rasche...I don't know where all

these rumors come from, but, again, Ken has been on-site. He has been trying to get it as this Board has requested because of the ordinance of July 1st to put it back prior to that condition in which she worked on it and that was the goal. It was to leave it as close to that as we possibly could so that we could satisfy the order.

President Mourdock: I heard you make the comment, Mr. Rasche, a moment ago, I think, that now there is a bit of a berm there or something that is not like it was prior to?

Kenneth Rasche: That's the work Mr. Jeffers is referring to which he first saw. There was a very steep and narrow berm, so you couldn't get a push mower over it. That is what we had to pull back and put on the south bank. I have pictures here that the ditch swerved to the south and then came back to the culvert that was still existing there. It's still there. And also on Saturday, again, trying to appease and make this matter as correct as we can without incurring more costs than we have to is my brother, Mike Rasche, went out there Saturday and spent three or four hours digging out the east end of the ditch around the turn so that it would be deeper, would carry more water. It is deeper than it was prior to any work in 1996. It will carry more water. As far as the culvert being clogged it is open. What appears to be a clog is there is a change, if you will, in angle. There are slightly different on angles on the larger culvert with a smaller culvert, so if you look through you have to get really low and see the clear passage way. Besides that, the smaller culvert has been in there, as we told you last time, it has been in there since the 1970's before my father died, well before this statute went into effect and it was actually there to maintain the flow.

President Mourdock: Okay, quick question, Bill. I just heard the statement made that it will carry as much or more water than it would have previously. Is that your feeling?

Bill Jeffers: Like I said, I was out there yesterday between 4:30 and 5:00 and what I saw is a ditch that in some places is slightly wider than it was in the pictures I've viewed. In some places it is slightly narrower. In some places it is slightly shallower and some places it is slightly deeper. So it will probably carry approximately as much water as it did before until it gets to the pipe. The pipe is half clogged with silt. Someone has used a hand shovel to scoop out the first four to five feet of the pipe and then from that point on it's half full of mud. The first...it's my opinion at this time the first time it rains hard enough to dislodge the erosion control mat and the loose dirt underneath it that pipe will be 100 percent plugged with debris and we'll be right back to square one.

President Mourdock: Joe, do you have any comments for us?

Kenneth Rasche: I would like to make another point that in the minutes of the April 27th meeting I think Mr. Harrison stated there is no requirement to upgrade up, of upgrading anything, it just has to be a workable pipe of the same quality that was there before. That silt Mr. Jeffers is referring to has been there since those tiles were installed. They were too large for the site. We didn't buy them. They were used drainage tiles, again, from my cousin's farm, so they were built down so that there wouldn't be too big of a hump, if you will, going over that. So that has been there since 1971 and, again, the ten inch culvert has been there since probably '75 or '76 again because my father put it in, not the contractor.

President Mourdock: Okay, and I'll ask again, Joe, you were just quoted there, is that accurate?

Joe Harrison, Jr.: Yes.

President Mourdock: Okay, where do we go from here?

Commissioner Jerrel: We have another person who wishes to speak.

President Mourdock: Real quickly.

Kenneth Rasche: We do have a chart here if it will help any. I recall...I was not here the first meeting, but from reading the minutes and being in the second meeting there is a lot of confusion about where all this lays out. It's not large enough to put on an easement...an easel, excuse me.

Jan Bollinger: (Inaudible comments.)

Kenneth Rasche: This is Rose. This is the only work that was done in August of 1996. From this point to this point this silt and dirt that Mr. Jeffers was referring to is from this here which has not been touched since '71 and also in the minutes of the very first meeting Mr. Heerdink and Mr. Rose testified that the culvert and the ditch (inaudible).

President Mourdock: The water flow is coming this way.

Kenneth Rasche: This is the drop basin the city put in in 1986.

Commissioner Jerrel: This is the area where the landscaping was?

Kenneth Rasche: That's right. Another point that probably hasn't come out clear enough, this is also the area where my mother repeatedly asked the neighbors not come on here property prior to 1996. (Inaudible.)

Jan Bollinger: For the purpose of channeling the water, because the city put this here ten years ago, they put it here and they put it here and in the first meeting you have on record the map's contour line from Andy Easley, he was certified and an expert (inaudible) and his maps clearly show that this is here and that's why they put it there, I suppose, because contour lines don't (inaudible). What you have to understand is that over the years (inaudible), so if that is natural, and I guess you could call it natural, but this is the only part that was excavated and if we need to get Staub to notarized that fact we can do that.

President Mourdock: We have the letter from Mr. Staub.

Jan Bollinger: Okay.

President Mourdock: Okay, let me get the other comments from other folks.

Kenneth Rasche: Just one more thing. This culvert here which goes to Mill Road was put in by the city. I'm not sure of the year, sometime in the 80's. A 15 inch culvert. The drop basin comes across underneath my mother's property, a 15 inch culvert. This up here the large end is a 15 inch culvert so it doesn't make sense if you need a 15 inch culvert a 15 inch culvert feeding into a 15 inch culvert. What I am trying to say is these culverts have not been sized, have not had any runoff calculated. I've never seen anything that shows that this needs to be a 15 inch culvert.

President Mourdock: Okay, we need to keep moving. Sir, do you still wish to make a comment? Now is your chance. And, again, state your name and address, too.

Tom Heerdink: My name is Tom Heerdink. I live at 18 West Mill Road. It's been a long time. As you know, I am a pretty patient person. This has been going on for two years now. Mr. Rose, who also filed the complaint, passed away last month so it is just his wife and she couldn't make it tonight. Mr. Harrison, after many conversations it is nice to meet you. I guess my concern here is we want it done right and if Mr. Rasche said that the ditch will carry more water than it did before as far as I know he is not an expert on that. I don't know what he bases that on. Mr. Jeffers stated it won't. I tend to agree with Mr. Jeffers.

President Mourdock: I'm not sure that is what Mr. Jeffers said. I thought I heard Mr. Jeffers--

Tom Heerdink: Yes, he did say it may carry as much, but once it got to the culvert it wouldn't.

President Mourdock: I heard him talk about the flow of the ditch as carrying as much or more water, but subsequently he thinks, and correct me if I am wrong, Bill, but subsequently you think that somewhere down the line that culvert is going to silt in, is that right?

Bill Jeffers: That's right. The culvert will become clogged again.

President Mourdock: Okay.

Bill Jeffers: I think once we have a good...if you really want to know what I think, once we have a good gully washer it will rip that erosion control mat and that mud out of there, that loose dirt, and it will carry more water than it did before. When it gets to the pipe it won't carry any.

President Mourdock: Okay.

Tom Heerdink: My mistake. I guess my other comments are if the Rasches really believe that this ditch will work after our last gully washer in early August the weekend after that...well, past history, Mrs. Rasche installed railroad ties along the fence that borders my property and hers. Whenever we got a gully washer it would carry the railroad ties across her property, so we're talking water that has traveled 100 feet has enough volume and speed to move these. Her son came by, I believe, two days after the last rain and drove metal stakes behind the railroad ties to keep the water on my property. If she believes the water would stay in the ditch why do we need to stake down railroad ties causing another obstruction of the watercourse? You know, the Board ordered her to replace the culvert. It benefits all of us. As in Mr. Jeffers' report it would benefit us and her because she is downhill and, obviously, the water runs onto her property. I've got some great photos if anybody wants to see the amount of water we are talking about. I've heard them mention the drain which is installed in my backyard. I couldn't understand what they were saying about it.

President Mourdock: You're welcome to look at the map here. I think they were saying the drop box.

Commissioner Jerrel: This is a conceptual drawing of the drop box and the underground drain and this is the part that was in question.

President Mourdock: Where are the railroad ties or where were the railroad ties?

Tom Heerdink: The railroad ties are along this fence right here.

President Mourdock: Okay.

Tom Heerdink: And when the water runs it builds up so much that (inaudible).

President Mourdock: So the railroad ties when they are there are not along the drainage way per se, they're just against the slope.

Tom Heerdink: Her property is lower than mine--

President Mourdock: Just a slope.

Tom Heerdink: --and it stops the water from running (inaudible).

Bill Jeffers: We're really talking about two aspects of the statute. The ditch that we're speaking of is a drain that existed and conveyed and intercepted a certain amount of water from upland properties. It conveyed it down into a 15 inch tile that the city put in down on Mill Road, okay. When that ditch would not handle large rainfalls the water that spilled out of that ditch continued downhill into Mr. Rose and Mr. Heerdink's backyards and the city came back and installed that inlet which is a 12 inch drop box with a 12 inch drain to catch the overflow from the mutual drain, catch it down in the saddle of the natural watercourse that Mr. Easley spoke about that is on record, and we don't have to go into it, but Mr. Easley represented the Rasches...was brought in by the Rasches' lawyer to try to say that the watercourse was through the backyards down where this 12 inch drain is at the inlet. That's true. That is the natural watercourse that predated the drain. Okay, now--

President Mourdock: Let me ask you--

Bill Jeffers: --it's down there, it's picking up the overflow and carrying it down to the same city's 15 inch drain. Now what Mr. Heerdink is saying is not only is he dissatisfied with the restoration of the drain, but in addition the Rasches have come and pinned railroad ties against the fence to further obstruct the watercourse, the natural watercourse, so all water spilling out of the drain that he is not satisfied will carry as much water as it used to the overflowing water is now blocked by another obstruction which if he wished he could file a petition for the obstruction of a natural surface watercourse. My intention here to bring this to a head tonight was, hey, let's come up with some compromise. Would they be willing for the county to bring a culvert from out scrap or surplus culvert supply, since they don't want "spend any more money" although they have thrown good money after more money--

President Mourdock: Let me ask you a question, though.

Bill Jeffers: --you know, with all this so-called landscaping.

President Mourdock: You said--

Bill Jeffers: I want to avoid another petition being filed.

President Mourdock: So do I and I want this resolved. I think all of us do. The area that shows on green on this map, I want to be sure, that's the area that you're stating has, in fact, been cleaned and may, in fact, carry more water now than it did before? Just go with me, step one, is that true?

Bill Jeffers: Yes.

President Mourdock: Okay, if, in fact, the pipe is clogged is the slope in that area sufficient that the water when it starts to back up is going to back onto the Heerdink property?

Bill Jeffers: Yes.

President Mourdock: Okay.

Bill Jeffers: Which puts it back into the historic natural surface watercourse created by nature that has a manmade overflow drain installed by the city in Mr. Heerdink's backyard. Which watercourse is blocked by a fence and some railroad ties currently.

President Mourdock: But, again, and I agree with what you said a moment ago, that's not the issue at hand.

Bill Jeffers: Not yet.

President Mourdock: The issue at hand is the watercourse. That's right. Let's deal with that. Bill just threw an option on the table which is to have a larger pipe in there. I would like to know from Mr. Heerdink or any of the Rasches that are here what options are there other than this? I mean, you're putting us in the position of being a judge here and realizing that we have to rely upon our technical expert--

Bill Jeffers: It doesn't necessarily have to be a larger pipe. I mean, a 15 inch pipe appears sufficient according to the city's calculations that they made before as long as it is kept open. A 15 inch pipe is what was there before that the Rasches installed.

Commissioner Jerrel: So you're saying take out the pipe that was installed at the smaller end--

Bill Jeffers: Take out the entire pipe structure which is just jerry-rigged together. It's just one cracked pipe with a plastic pipe stuffed up inside it as an emergency pipe sleeve. That's what started the obstruction inside the pipe and now it has built up so the pipe has got a half moon. When you look through it, it's not a full moon, it's a half moon. What has caused that is the one pipe being stuffed up inside the other is causing a buildup of silt.

Commissioner Jerrel: But you're suggesting that we contribute the pipe?

Bill Jeffers: I'm suggesting that because the pipe predates the statute. You can't say it was intentional--

Commissioner Jerrel: Right.

Bill Jeffers: --because the definition of an obstruction didn't exist legally until the statute was enacted. If it's the Board's pleasure I'll go out and look for a piece of surplus pipe at the County Garage. If I can find one that would be suitable and you order the Surveyor to take over this project and complete it, it would be...probably our action would be to hire a different contractor, go out there and scoop the loose dirt out of the ditch, set the pipe, replace the old pipe with a piece of surplus pipe at the same grade that pipe sets at now and then match the invert elevation of the pipe we set, start there with the

ditch and go uphill until we hit the invert elevation of the pipe that Staub set for the Rasches at the upstream end of this ditch. That's what was done and that's what I viewed...I'm sorry. That's what was done and that's what I viewed before the loose dirt was put back in the ditch. They matched the two flow line elevations. Tony Muller told me that on the phone. He went out there and he matched the downstream pipe and the upstream pipe and--

President Mourdock: Let me go back to my question of a moment ago. Okay, we just heard one option. That is option number one. Do you have an option, Mr. Heerdink?

Tom Heerdink: I just don't want water on my land.

President Mourdock: Okay, do you...I'll save that question.

Tom Heerdink: You know, I'm not an expert so I have....if the culvert is clogged common sense tells you you've got to replace the culvert or clean it out or whatever it takes.

President Mourdock: Okay, and you understand and agree with what Mr. Jeffers said a minute ago then that, in fact, the ditch is properly sized now, but it is the culvert that is the problem?

Tom Heerdink: I have to assume he knows what he is talking about.

Bill Jeffers: I'm saying the ditch is properly sized underneath the loose dirt.

President Mourdock: Okay, I understand.

Bill Jeffers: There is a quantity of loose dirt that needs to be taken out.

President Mourdock: Okay. Mike Rasche or Ms. Bollinger or someone else just stood up there. I want to know what options you think are suitable.

Jan Bollinger: I think there are a few things that we need to clear up first. If we can use the map to show you and I know because we have pictures and I stood out there in November when the rains came down.

President Mourdock: Mr. Heerdink, would you come up here so you can see what she is pointing to, please.

Jan Bollinger: What happens is you've got Stringtown Road up here and you have a tremendous stream that goes down this direction here, so, yes, there is some when we have a 50 year rain or a 100 year rain your ditches aren't going to take care of it, but there is more than that comes (inaudible).

President Mourdock: That's right. We're not worried about that. That's not the issue at hand. The only issue at hand is the water running through that ditch as far as--

Mike Rasche: Well, what we were required--

Joe Harrison, Jr.: What is your name, sir?

Mike Rasche: I'm Mike Rasche, 6800 Old State Road, Evansville, Indiana. We were required by the order to put this section back to the condition it was prior to the landscaping. That's been done. Whether Mr. Jeffers thinks it will carry more water or

not is really irrelevant. It's been put back to the condition that it was. How much water it will carry wasn't known then, it isn't known now. This water runs into this tile which it has done for 20 years and better. It runs through here for over 20 years. This segment of the waterway, he may like for us to put some brand new tile in, that was not what the statute was about. These are unchanged for over 20 years. Water has been running through there for over 20 years. The exception being when we have a heavy rain then the water that comes through here if it would not be handled by this ditch and prior to the landscaping it wouldn't handle a whole lot of water, it would run into Mr. Heerdink's backyard. If you want to avoid Mr. Heerdink complaining about water in his yard he needs to move because every time it rains water comes off Stringtown hill and floods his yard. Now, my mother put those railroad ties across there which may or may not have been a bright idea. I put them in there for her. What that does is it stops the water from crossing her property and eroding her property over here. Hers is eroding into this ditch and she is trying to stop that. She put the tile to force the water down this drain. This drain was put in because this yard is the low spot. This point is a little below my mother's yard. Both of these are on the bottom of a hill. Every time it rains there will be water standing in Mr. Heerdink's backyard. I don't care if this ditch is five feet deep and concrete lined he is going to have water because his backyard catches the water from all of this. Now, if this ditch overflows, yes, he'll catch that water also, but it is going to join a lot of other water. There is nothing we can do back here to keep his yard dry and I think that is what he wants. If we were to put in a five foot concrete culvert with a dike along this side he would still have water in his yard. There is nothing that we can do about that.

Kenneth Rasche: I measured the culvert just on Saturday and this culvert is 15 inches. I don't know what the drop is because that is not on my mother's property and it's on the other side of the fence, but the culvert is 15 inches. It appears to me that if anything is happening that the drop in the back of his yard is clogging and allowing the water to go across the property and the initial reason--

President Mourdock: The drop, you mean by that the drop box?

Kenneth Rasche: This drop box, drop basin, and the initial reason because allegations are being made here which are hearsay, the initial reason for the fence and the railroad ties were to keep Mr. Heerdink off of my mother's property and blowing mower discharge onto her house and garage. She has spent, as I referenced at the last meeting, she has spent thousands of dollars answering petitions. Last time we were here we agreed, okay, we would have Staub come back, do the work, take the landscaping out and put it back to its original condition. We were under the understanding that we do that and we'll be done with this. Now you're coming with other stuff.

President Mourdock: We haven't come back with anything. That's what the discussion is.

Mike Rasche: Mr. Mourdock, you're being used as a pawn. Now there will be more complaints. There were complaints before, there will be complaints later. What has to happen to end this feud is for someone to come to 20 West Mill Road and buy my mother's house. She is trying to sell it, so she leaves. If the Heerdinks get along with them better, fine. I suspect that nothing will be fine until Catherine Rasche or Tom Heerdink moves out because this feud has been going on for more than the two years that this has been going on.

President Mourdock: Okay, thank you all. Where do we go, Drainage Board and

County Attorney and Deputy Surveyor? What are our opinions? Let's go back to that issue.

Bill Jeffers: Well, I would like to correct one statement. I wasn't talking about piping the entire waterway as the second Mr. Rasche indicated around the curb and down a 25 foot strip towards Mill Road. I never said that.

President Mourdock: I don't think he interrupted it that way. He was just making that point.

Bill Jeffers: Well, his finger made a curve. I was only talking about replacing the culvert that exists with one that will actually handle some water. The second statement that the ditch is restored as it was prior to the filling or as they call it landscaping. We do have pictures in our file and Mr. Heerdink has pictures in his possession and I viewed those pictures and some portions of the waterway, as I said earlier, are wider and deeper than they were before and some portions of the waterway are narrower and shallower as they appear in those pictures, so the ditch may or may not hold and convey as they did prior, but I am telling you there is enough loose dirt and erosion control mat in that ditch right now that if we have a good gully washer it will upset the erosion control mat and stuff it in this pipe.

President Mourdock: Okay.

Bill Jeffers: And it needs to be done right.

President Mourdock: Alright, well, hearing nothing from this Board let me list what I think are the options. The options, and, Joe, please correct me, option number one is to somehow, I guess, find that the Rasches did not meet the direction of this Board as given in April and thus continue the process on to have them continue cleaning, changing pipe, whatever. Option two is to say that they have, in fact, met the standards that were laid out for them in front of this Board and to accept what they have done to that level. Option three is to deal with what Mr. Jeffers said previously which is somehow to get a different piece of pipe in there. Now there may be other options for us to consider, but it seems to me at this point we need to deal with one of those. I'm the only one doing any talking and I would like to do some listening.

Commissioner Jerrel: I have a question to ask you, Bill. Let's say that you find this piece of culvert that would be larger all the way through. That the sleeve that is obstructing the one end would be removed. How big of a job to replace that is it?

Bill Jeffers: Less than half a day. I've seen your culvert crew install a pipe all the way across a county road and fill it and have it open to traffic in half a day.

Commissioner Jerrel: Okay, so you're suggesting that the Garage would do the culvert work when they can and put in a new culvert? That would be one thing that you think ought to be done?

Bill Jeffers: If that is the pleasure of the Board or that we hire a contractor and locate a piece of surplus pipe at the Garage and have a private contractor do it, whichever you think is most appropriate or if either is appropriate.

Commissioner Jerrel: Okay, well, let's just say it has not been ruled an intentional...this has been in there since '75--

Joe Harrison, Jr.: Well, the whole thing is intentional.

Bill Jeffers: It was ruled intentional at the original hearing.

Joe Harrison, Jr.: The crushing.

Commissioner Jerrel: The crushing at the end of it? Okay. What kind of money are we talking about?

Bill Jeffers: Somewhere between \$1,200 and \$2,000 I would estimate for the pipe. I mean, to remove the existing pipe and install a new one possibly \$1,200 to \$2,000.

Commissioner Jerrel: And is the dirt in the ditch and the mat that's down, is that something that the Rasches could do themselves?

Bill Jeffers: It's been done once by their contractor.

Commissioner Jerrel: But I mean they could...there is a way to attach--

Bill Jeffers: I tell you what if you pulled that mat up you could probably take shovels and wheelbarrows and scoop the loose dirt out of there. There would be a lot of physical labor, but, yes, that could be done physically with manpower and hand tools.

Commissioner Jerrel: Okay, and you're saying if you find the pipe what's the...you're saying that whole project \$1,200 to \$2,000 includes the cost of the pipe and the labor in your estimate?

Bill Jeffers: To install the pipe, yes, ma'am.

Commissioner Jerrel: That would be both items?

Bill Jeffers: To buy the pipe and install it...install the pipe and remove the old pipe and take it to the dump and throw it away.

Commissioner Jerrel: Is that pipe, though it's not the obstruction we spoke to is it?

Bill Jeffers: It was part of the obstruction in that it was clogged.

Commissioner Jerrel: So to unclog it to get rid of the sleeve is the only way you see that water flowing?

Bill Jeffers: Yes, ma'am, because if they pull the sleeve out the older concrete pipe that the sleeve was used to repair may collapse. I mean, let's just do it right and get it over with. Ken and I talked about that earlier this spring and he had a price for replacing that pipe and he represented it as an expense they didn't wish to bear. So he does have a price and he may or may not confirm my estimate.

Commissioner Jerrel: Mr. Heerdink, is there anything...I'm going to ask both of you. Is there any way that you would participate in this in any way? Alright. Mr. Rasche, can you comment on how you feel about the culvert? Is there any way we can get that culvert out of there?

Mike Rasche: I don't think the culvert is an issue.

Jan Bollinger: How did we get to the culvert when the order has been, you know, the people...the Board wanted us to use the same people to put it back as close as possible. We did. If there are pictures that existed that would have benefitted they should have been on-site because Ken spent a lot of time out there with the sole purpose of trying to get this back as close as we could using the same operators.

Joe Harrison, Jr.: The only question I had, ma'am, is apparently when Mr. Jeffers first went out there a couple of weeks ago or a couple days ago he originally was satisfied with the work that was done.

Jan Bollinger: Who did he convey that to?

Joe Harrison, Jr.: I think he just said that a few minutes ago in this meeting.

President Mourdock: Yeah, he said that earlier here this evening.

Jan Bollinger: Okay, the work was still in progress--

Kenneth Rasche: The work was still in progress--

Joe Harrison, Jr.: That's what troubles me about this whole scenario.

Kenneth Rasche: That's why I called Mr. Jeffers on August 24th multiple times, August 25th multiple times, the 26th and the 27th. So if there were any problems with the way it's done Mr. Staub...or Staub's crew was out there and we could get it back to somewhat...you know, we did not have, as my sister talked, we did not have the benefit of the pictures. We would have loved to of had pictures, something to go by. We were going by Staub's recollection and they had...we waited longer to get at least the truck driver from the same crew there, so they were going back by memory.

Joe Harrison, Jr.: Right.

Kenneth Rasche: But it was not in its original condition.

Joe Harrison, Jr.: But, again, Mr. Jeffers has again said that when he first looked at it it was fine.

Jan Bollinger: And who...the point is though the work was under construction. He looked at it, it did not look like the way he remembered it and that is when he spoke with them and they had...like I said, they had the same truck driver trying to get this back as close as possible. Who did you convey that you were satisfied when you saw that? Did you convey that to anyone so we could have stopped at that point?

Bill Jeffers: I don't need to answer that question. I mean, this isn't a court. I'm not, you know, who am I supposed to convey that to?

Kenneth Rasche: Again, the minutes said you would be at our disposal.

Bill Jeffers: I was, Ken, and you called and I went out there and I looked at the...because this is the way you operate I don't like to be--

President Mourdock: Hold on.

Bill Jeffers: --in a position where I am the single representative of the county while three

or four of you guys gang up, okay? Now that's pretty simple. You and I have known each other a while and you know that I can talk to you face to face. That would have been fine. We talked on the phone several times. Don't represent that I was not available to you when I have talked to you on the phone several times. Now, one of you is standing up there saying one thing and one is you standing up there saying another. You're saying that your mom put the railroad ties down there to block water. You're saying that your mom put the railroad ties down there to block grass clippings and I'm sure you have another story. Whichever, but, you know, so what basically happened was on or about August--

Commissioner Tuley: This whole thing can be brought to a close. Where is the order?

President Mourdock: That's right.

Commissioner Tuley: Where is the original order?

Bill Jeffers: It's in that file over there, but every time I go to retrieve it and it's all in your minutes and everything else.

Commissioner Tuley: Please, this is getting ridiculous. Go get the order and then all you've got to do is did they or did they not meet the requirements of that order?

Bill Jeffers: No, they did not.

Commissioner Tuley: That's the only thing that is at issue here.

Bill Jeffers: On August 24th--

Commissioner Tuley: All this other stuff--

Bill Jeffers: On August 24th the channel was restored to a condition as good or better than it existed before its obstruction and I went and looked at it and I was ready to come to the Board and Mr. Heerdink and I spoke on the phone and he was satisfied with the way that the channel had been restored. The very next day I go by on my way across the county, as I said earlier, and I noticed they're lifting dirt up and putting it back in the ditch and I stopped and asked the workman why are they doing that? Now as to Mrs.--

President Mourdock: Just stick with the facts. Okay, you just said the facts, Joe...or, Bill, I'm sorry. Again, I come back to Pat's point. What are we going to do with this, how are we going to deal with it? Either the order was complied with or it wasn't.

Bill Jeffers: I've stated my opinion on whether it was or not.

Commissioner Tuley: All I want to do is see because the real bugaboo seems to be the pipe. They're saying they shouldn't need to replace the pipe because the pipe wasn't part of the problem, but if the pipe was at issue and part of the order the pipe has to be replaced.

Joe Harrison, Jr.: The pipe is mentioned in the order. I don't have the order in front of me. You might...get the court's judgement, Bill, if you have it over there. That is part of the entry.

Kenneth Rasche: But, again, I think everybody here recognizes that those are errors in

the first Drainage Board meeting. We were very poorly represented.

President Mourdock: That doesn't matter.

Commissioner Jerrel: Okay, let me just make a suggestion if we can do it. We will, if we have to, we'll call a special Drainage Board meeting. We need to get the order and have our attorney look at it. We're going to make a ruling that may or may not please anybody, so we want to at least give ourselves the time to do it correctly, so I am going to make a motion that we take this order and this action under advisement until such time as we can inspect it and get our attorney to look at it and if necessary we'll send you a notification for a special Drainage Board meeting so you don't have to wait a month.

President Mourdock: Okay, there is a motion there and let me just ask if we might amend it one slight way which is whatever Joe's findings of fact is regarding the interpretation of the order that it be conveyed in writing to everyone involved with this prior to when we have to sit down and go through this one again.

Commissioner Jerrel: That's understood in the motion.

President Mourdock: Okay.

Commissioner Jerrel: All of you will receive the findings of fact.

President Mourdock: Okay, there is a motion, is there a second?

Commissioner Tuley: What was his point? I didn't hear what he said.

(Inaudible comments not made from microphone.)

Commissioner Tuley: I'll second the motion. We'll review it.

President Mourdock: We will take it under advisement and we will notify you after we get our written opinion back and you will get the opinion, also, of our attorney and the representatives, either Ms. Bollinger, Mr. Rasche or Mrs. Rasche will get a copy of the written--

Joe Harrison, Jr.: And they'll make a determination at the next Drainage Board meeting or at a special Drainage Board meeting if they have to, but they'll take that action in public.

Commissioner Jerrel: Does this...would this drawing be of assistance to you if we kept it for the record?

Joe Harrison, Jr.: It doesn't matter. Mr. Jeffers may want to see it. I don't have any need for it.

Commissioner Jerrel: Do you care if we keep this for the record?

Kenneth Rasche: No. I can I ask a question also? I was expecting this type of problem. This is a picture of how it was on the 24th when it was too deep and the berm was not (inaudible).

President Mourdock: Okay, so we'll get that report back from the County Attorney prior to the next meeting and everyone will be so notified. I don't know if I said it before, but

to the second so ordered.

Update on Koch petition

President Mourdock: Okay, the next item on our agenda is the continuation of the John and Wanda Koch petition hearing, which I think I saw Mr. Hawa. Okay, there we go.

Bill Jeffers: If my memory serves me right, and it probably doesn't, this Board right now is required to consult with the petitioner, the respondent and the County Surveyor with regard to who will perform the work and who will pay the costs. The Surveyor remains at the service of the Board pending your order to remove the obstruction.

President Mourdock: Okay, just a historical review, this one was last week and it was a two to one vote on whether or not the obstruction existed and the motion was that it did, in fact, exist. Comments from the Board?

Commissioner Tuley: I think the question at hand is the Board did vote to have the tree removed. There is a provision in the law that allows the Board to have the petitioner, if he wins, to pay for the removal of same and I guess there is a provisional law that also says we have to talk to you about that prior to making that order.

Commissioner Jerrel: Because it was ruled to be non intentional.

Commissioner Tuley: Right, because it was ruled to be non intentional, that's right. Mr. Koch, are you willing to pay for the removal of the tree?

John Koch: We had offered prior--

President Mourdock: Please do the microphone thing, thank you.

John Koch: John Koch, 201 Thompson Avenue. We had previously written Mr. Hawa several times offering to take the tree out at our expense. We had no response. We did this repeatedly and no response.

Commissioner Tuley: Okay, you're answering the question, you're willing to do that then, that's what you're saying?

John Koch: I don't know that I am at this time, sir, because we had a chance...we paid \$100 to come to this hearing and I was ready before we had a hearing to take the tree out and I got no response from Mr. Hawa. I understand it was ruled non intentional because there was no statute on the books at the time the tree was planted.

Commissioner Jerrel: That's the same...you've heard that during the evening, too, that we have to go from the time of the institution of the ordinance.

John Koch: The dirt, however, was put in intentionally. It has been done just within the last year.

Commissioner Jerrel: Okay--

Joe Harrison, Jr.: You have to confer with Mr. Hawa as well even though it's not really relevant.

President Mourdock: Yeah, is Mr. Hawa...yeah, he is still here in the audience. I guess you need to come forward, Mr. Hawa. Go ahead, Pat, same question here.

Commissioner Tuley: Just basically same question and you don't want the tree down so I think I know the answer, but I am required to ask you, are you going to pay to have the tree taken down?

Fouad Hawa: Well, we talked about it last week. Actually, I think the tree is there for a purpose. I think it's a mistake on your part to order the removal, which we're not going to get into it. You ordered to remove it. I'm ready to go along with it, but I don't think I should pay for it. He wants it removed, he should pay for it.

Commissioner Tuley: That's what we need to know.

Fouad Hawa: Also, I have a special request. I know the decision has been made to remove the tree, that's not an issue, but I do ask the Board if they give me 60 days before they take the tree down. Before he takes the tree down I need some time for legal counseling on it, on the issue.

President Mourdock: Okay.

Fouad Hawa: I mean, the decision has been made, it's okay and I am willing to go along with it, but I need 60 days to talk to my attorney.

President Mourdock: Joe, let me ask the question, I don't recall in this greatly muddled act that we have to deal with there is any set time for response, is that correct?

Joe Harrison, Jr.: No, there isn't. Unfortunately with the Rasche matter that thing has been going on for a long time, but we certainly don't want that to happen again. I know the Board does have a proposed order in front of them and I don't know if it is something that they wish to consider or not, but they may wish to.

Commissioner Tuley: Even the order does not make mention of the question of...or does not give a time table does it?

Joe Harrison, Jr.: No, it does not. It doesn't say that it has got to be done within a certain period of time. I think that would be up to the Board to direct should it direct the Surveyor to do anything, that would be your recommendation to him or your direction to him, but the order would be what it is.

Commissioner Jerrel: Well, it should be within a reasonable length of time.

Joe Harrison, Jr.: But you may want to direct them separately as to when that reasonable period of time is. I don't think it has to be in the order.

Commissioner Jerrel: Right, but it isn't going to be two years or one year.

Joe Harrison, Jr.: That's correct, I think it's whatever you--

Commissioner Jerrel: It's going to be a reasonable amount time.

Joe Harrison, Jr.: Assuming you all want to act in that fashion.

John Koch: May I ask a question? Are we speaking of a tree or the trees? I will take

out a tree, the one behind my house. I will not take out the other one which is also an obstruction, but that was not part of the petition.

Joe Harrison, Jr.: The proposed order deals with obstructions set forth in your petition.

Commissioner Tuley: Right.

Joe Harrison, Jr.: Whatever those obstructions are.

John Koch: A tree behind my house?

Commissioner Tuley: A tree and the dirt.

John Koch: And the dirt was put in after this statute was in effect. I will not pay for taking out the dirt because that was intentional. I can understand your bit on the tree. For your information the Weeping Willow tree which is against his fence and there are 12 other trees in that waterway, but we're only talking about two trees and the dirt. The dirt I feel is intentional. I won't pay for that. If I pay for anything I'll pay for the tree behind my house and when I am ready to take it out I will take it out. If he doesn't have a lawyer in certain length of time, so be it. He can argue the lawyer with the other one.

Joe Harrison, Jr.: The proposed order, just so we don't have to get into that much further states that the Board further directs the County Surveyor to remove the obstructions at the expense of the petitioner, so it would not be you out there doing anything it would be the County Surveyor. That is in the proposed order and the proposed order states that you would be required to pay the expense of the removal of the obstructions, so the County Surveyor would actually do the removing and the cost would be borne by you. That is in the proposed order. I don't know if this Board wants to go along with that recommendation, but the order is that it's an unintentional obstruction and that the Surveyor would be charged with removing such obstructions at your cost and if that is what they want to consider that's what is in front of them.

John Koch: Is that plural, obstructions or obstruction?

Joe Harrison, Jr.: Obstructions.

President Mourdock: Plural, it is plural.

Commissioner Tuley: Plural is what this says.

John Koch: Our petition dealt with one tree with what we filed.

Joe Harrison, Jr.: No, it said obstructions.

Commissioner Jerrel: I just have one question. If we approve this order, Mr. Jeffers, I would ask that you work with the petitioner and with Mr. Hawa so that we don't go out and do it tomorrow, but that it is done and, you know, we have assurance that it is not something that goes on for a long period of time, but that there is a reasonable...and I don't know what I mean by reasonable period of time.

President Mourdock: Let me use, just because we need a definition here, is the 60 days reasonable that Mr. Hawa suggested? November 28th, end of November.

Bill Jeffers: He can go file an action in the Circuit or Superior Court tomorrow. He doesn't have to wait 60 days.

Fouad Hawa: I need a lawyer to talk to first before I...it's not just going to court.

Joe Harrison, Jr.: That's fine.

Commissioner Tuley: Sixty days or 45 days, what did you say?

Commissioner Jerrel: I said 45, but that would be--

President Mourdock: Is there a motion?

Commissioner Jerrel: Yeah.

John Koch: I would like to think in terms of the weather, too.

Commissioner Jerrel: Yeah, I think that...are you going to read that or do you want me to read it?

Commissioner Tuley: Doesn't make any difference who reads it.

President Mourdock: Be specific.

Commissioner Jerrel: Alright:

"The Petitioners, John F.W. Koch and Wanda L. Koch, having filed their petition with this Board on June 22, 1998, concerning alleged drainage obstructions located at 146 Lant Lane in Evansville, Vanderburgh County, Indiana, that property being owned by the Respondents, Fouad M. Hawa and Evangeline Hawa. This Board heard this matter at Special Meeting on September 21, 1998 which began at approximately 7:00 p.m. Based upon the evidenced adduced at such hearing, and being otherwise duly advised, this Board now finds that obstructions of a drain or natural surface watercourse exist on Respondents' land at 146 Lant Lane in Evansville, Indiana. The obstructions affect the Petitioners' land at 201 Thompson Avenue in Evansville, Indiana. Removal of the obstructions will promote better drainage of the Petitioners' land and will not cause unreasonable damage to Respondents' land. This Board finds, by a preponderance of the evidence, that the obstructions were not intentionally caused by Respondents. The Board further directs the County Surveyor to remove the obstructions at the expense of the Petitioners..."

...within 45 days.

President Mourdock: Within or not sooner than?

Commissioner Jerrel: Not sooner--

Commissioner Tuley: Not sooner than.

Commissioner Jerrel: Not sooner than 45 days, but thereafter.

President Mourdock: Okay. That is a motion?

Commissioner Jerrel: That's a motion.

Commissioner Tuley: I'll second it.

Bill Jeffers: Before you so order may I make a comment?

President Mourdock: You may.

Bill Jeffers: The Surveyor's Office does not own equipment nor have access to equipment with which to accomplish your order.

President Mourdock: I think it is understood that the work would have to be contracted out.

Commissioner Tuley: Be contracted out.

President Mourdock: I've always assumed that.

Bill Jeffers: If the work is contracted out I'm sure the contractor wishes to be paid and there may or may not be sufficient funds in the General Repair Fund that the statute speaks to as the source of funds, therefore, the Drainage Board would have to go to the County Council and request an appropriation or a transfer of funds and if you do so it would be our recommendation to transfer it from Eagle Slough account which has a large surplus, much larger than what we need for Eagle Slough in the next three years.

Commissioner Jerrel: Bill, will you just put that in writing to me?

Bill Jeffers: Yes, ma'am.

Commissioner Jerrel: Alright, and I'll take care of it.

President Mourdock: The other option, obviously, is that the petitioner pays, which hasn't been fully discounted yet from what I've heard here.

Commissioner Jerrel: No, but we will provide a bill.

Bill Jeffers: Right, the statute requires that we pay it initially and we seek reimbursement from the party to whom you assign the debt.

President Mourdock: Right, thank you. Okay, there was a motion and a second then that this matter be dealt with by the Surveyor's Office, however, no sooner than 45 days, is that correct?

Commissioner Tuley: That's what I seconded. There was a motion, there was a second and to that I will say so ordered.

Combination of Pond Flat C, Pond Flat E and Rusher Ditch

President Mourdock: The next item on our agenda as we speed through it this evening.

Bill Jeffers: I certainly hope this one is easier. This is a public hearing on the combination of Pond Flat C, Pond Flat E and Rusher Ditch into one drain. It has been advertised by your attorney. I believe you have all that information in your record. The

County Surveyor received the request delivered by Big Creek Drainage Association on behalf of landowners served by the three ditches subject to this hearing. The request is to combine the three ditches into one drain with one assessment. The assessment rate by each drain for 1998 is as follows: Pond Flat C, \$1.35 per acre; Pond Flat E, \$1.96 per acre; Rusher Ditch \$.66 per acre. The Surveyor's projected assessment required a fund maintenance of a combined drain in 1999 as \$1.10 per acre based on a spread sheet prepared by Linda Freeman which I will distribute. In the absence of any suggestion thus far, in other words we solicited suggestions for a ditch name and got none, the County Surveyor recommends calling the combined drain Rexing Ditch.

President Mourdock: Okay, this is a public hearing on this matter, anyone wishing to speak to it? Seeing none or no one coming to the microphone is there--

Commissioner Jerrel: I would propose that we accept the recommendation of Bill Jeffers.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Commissioner Tuley: Can we...is there anyone here under new business A and B? If not we could skip over that and go onto these things a come back to that.

President Mourdock: Very good point. Did all of you hear that? Is there anyone here specific to the new business issues on the agenda? If not we'll move to some of the drainage plans which I think is why most of you are here.

Commissioner Tuley: Most of you are here for that.

L & S Minor Industrial Subdivision - Final drainage plan

President Mourdock: Okay, let's just do that, Bill, if you would just go to final drainage plan for the L & S Minor Industrial Sub.

Commissioner Tuley: Then we'll come back to new business.

President Mourdock: We appreciate your patience through all of this thus far tonight.
Commissioner Jerrel: It's an educational procedure.

President Mourdock: I know you probably all have the urge to rush out and run for elected office, but the deadline for this year has passed! The L & S Minor Sub.

Bill Jeffers: Okay, this is Item IV-A, L & S Minor Sub. It's a minor sub due to Area Plan Commission's regulations. The project is located at the southeast corner of Burkhardt and Old Boonville Highway just east of the Eagle's former picnic and spot shoot property which is now being developed as MJM Industrial Subdivision. Normally we would deal with a one lot commercial parcel such as this in Site Review Committee, however, the Area Plan Commission requires a final drainage approval of this drainage plan so that the plat for L & S Minor Sub may be recorded and a permit issued for this one parcel. That is the only parcel known as L & S Minor Sub. Due to topography of the lot we still have a some minor details to iron out so that the discharge from the basin shown in blue can be routed into MJM Commercial Subdivision, Lot 1 outlined in pink. While MJM is okay with this concept we may have to negotiate with a third party, Vickory Drilling, to cross some ground immediately south of L & S's south line for an off-site easement shown dashed in orange there. So basically what we're asking the Drainage Board to

do is to approve this final plan presented by Morley & Associates for L & S Minor Subdivision with the stipulation that the site drainage plan will show these details conveying storm discharge from their pond south to the southeast corner of Lot 1, MJM Subdivision, and into MJM's channels and basins on its way to Crawford Brandeis Ditch. We're asking the Board to allow those details to be shown on the site plan at Site Review Committee and allow the Surveyor to sign off at that time. By doing this we avoid 30 to 45 day delay in acquiring a building permit for this one parcel development.

Commissioner Jerrel: I'll make that motion, but I have this one question. You haven't spoken with Vickory yet?

Bill Jeffers: No, ma'am.

Commissioner Jerrel: Okay.

President Mourdock: And we don't need to do this subject to Vickory's approval of that easement?

Bill Jeffers: There may be other possibilities that Mr. Morley can...we're not designing it for him--

President Mourdock: Okay, that's just one--

Bill Jeffers: Based on the design he presented that would be our only--

Commissioner Jerrel: Then I will move approval as Mr. Jeffers described the final plan.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Keystone, Section C-6 - Adjusted final drainage plan

Bill Jeffers: Okay, Item IV-B is Keystone, Section C-6. Keystone, Section C-6 has final approval in its entirety. This is the entire C-6. What you're looking at is a primary plat of an adjusted parcel where they have adjusted some street alignments to facilitate street connections with ground to the east of C-6. The ground to the east fronts on Green River Road up there in the upper right-hand corner on your site location map. You can see that Green River Road is approximately eighth of a mile or so to the east. What they're doing here is adjusting the plans so that they can connect to Green River through the parcel of property they have now acquired to the east of the parcel. The adjusted drainage plans which are just the portion outlined in pink, this portion of C-6, changed some curb inlets and pipe locations but do not change storm water calculations, do not change the direction of flow, do not change the points of discharge of the storm water. It's still routed through their basin design which was approved down here and goes into the Pigeon Creek/Licking Creek area. The Surveyor recommends approval of the adjusted final drainage plan for the Keystone C-6.

President Mourdock: Would you hold that up one more time, Bill? I just need to make a reference here.

Bill Jeffers: This is north. Here is Heckel Road. Green River is about an eighth of a mile over here.

President Mourdock: Okay, you were saying something about Green River, I thought it was--

Commissioner Jerrel: See, here it is right here.

President Mourdock: Okay.

Bill Jeffers: They're stubbing out so that they can go through this new parcel of land that they've acquired and access Green River. That's what the county planners and the fire department and so forth require.

Commissioner Jerrel: I would like to move approval of the Keystone, Section C-6, adjusted final plan.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Camden Farms - Final drainage plan

Bill Jeffers: The next item, Camden Farms, has been withdrawn for one month. It is awaiting a letter from DNR.

Waterford Park 4B5 - Final drainage plan

President Mourdock: Okay, preliminary plans.

Bill Jeffers: Actually, on Waterford Park 4B5 since I made this agenda last Thursday the Surveyor now would like to move Waterford Park 4B5 from preliminary approval to final approval. The reason that 4B5...the reason we would like to move it to final approval, this is the last piece of Waterford Park along the north side of Vogel Road to be developed and it utilizes a drainage plan which is nearly complete in the field at this time. All parts of Waterford Park on the north side of Vogel Road already constructed appear to function as planned and approved and this small replat of a part of Lot 4 meshes into the constructed plan and finishes it off. Also, one of the lots in 4B5 is being developed in conjunction with an adjacent lot in 4B4 and that's the building I've outlined in pink that straddles the lot line. The east side of their project has final approval already. The only reason we held up final approval for this, what is now called 4B5, is so that Mr. Ream, who is here in the audience, could work with Area Plan Commission and EUTS to align Kimber Lane which he has accomplished now. That's where Kimber Lane is going to be. That's the only reason it was ever held up for final in the first place. Also, each remaining lot in 4B5, since it's commercial, must be routed through Site Review at which time our office and the County Engineer can address any minor adjustments if they're required and the final plan for Waterford 4B5 meets all the requirements for a final plan according to your ordinance and our office recommends approval of the final plan for Waterford 4B5.

Commissioner Jerrel: I move approval of Waterford Park 4B5 final plan approval.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Ream: Thank you.

President Mourdock: Thank you for your patience.

Joe Ream: No problem.

Elpers Industrial Subdivision - Preliminary drainage plan

President Mourdock: The last one for preliminary is Elpers Industrial Subdivision.

Bill Jeffers: I didn't bother coloring this one up. It's just too simple.

President Mourdock: We do simple.

Bill Jeffers: Okay, Elpers Industrial Sub is a preliminary plan. Elpers Industrial Sub is a two lot commercial sub located immediately south of Busler's complex at US 41 and I-164. It's sitting behind McDonald's, Arby's and there are some motels to the southeast of this parcel. I understand one of the two parcels here has already been offered and is in the process of being sold to a motel developer. Details shown on this preliminary plan for Elpers Industrial Sub are sufficient for a two lot subdivision...commercial subdivision, and the County Surveyor recommends approval of the preliminary plans for Elpers Industrial Subdivision.

President Mourdock: I understand there may be some discussion on this one. Are there questions of the Board? Sir, please come forward.

Wallace Stremming: My name is Wallace Stremming and I am here as a representative of the Gulf Hill Enterprises. Basically, my intent to be here is just to look at that drawing if I may, please.

Bill Jeffers: I can give you a copy if the engineer would allow me to give you a copy.

Wallace Stremming: We would appreciate it.

Bill Jeffers: I have an extra copy for that purpose.

President Mourdock: We are just getting this for a preliminary plan tonight.

Wallace Stremming: That is correct.

Bill Jeffers: This, being a commercial subdivision, also must go before Site Review so each parcel as it is developed has to have final approval there.

Wallace Stremming: We basically don't anticipate any problems, it is just that we would like to see it.

President Mourdock: Sure.

Wallace Stremming: Thank you very much.

Commissioner Jerrel: I move approval of the Elpers Industrial Subdivision preliminary plan.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: The reason I asked the representative...the engineer from Donan if I could do that because actually that is their property until it runs through Area Plan Commission.

Blue claims

President Mourdock: Which way are we going on the agenda, Bill? Are we going to pay claims?

Bill Jeffers: You might want to sign the claims while you're looking at new business. Item VI-A are the claims submitted this month for maintenance completed, inspected and approved by the County Surveyor for ditch work. All the necessary paperwork and signatures are attached and the Vanderburgh County Surveyor recommends approval of these claims.

Commissioner Jerrel: I'd like to move approval of the claims as presented.

Commissioner Tuley: Second.

President Mourdock: So ordered.

New business

President Mourdock: Okay, now back to new business.

Bill Jeffers: On Item III-B we left the Delgado's request to pipe an open ditch on the agenda in case they appeared with new information, but I do not see the Delgados here tonight.

President Mourdock: Do we need to take any action then on that?

Bill Jeffers: We don't recommend any action on that.

President Mourdock: Okay, thank you. Okay the boundary description for the US 41 impacted drainage area. Any comments there, too? Tonight's meeting is not the public hearing for this, correct, Bill?

Bill Jeffers: No, sir, it is not.

President Mourdock: Okay.

Bill Jeffers: Mr. Harrison has prepared a notice of a public hearing regarding an ordinance establishing an impacted drainage area along North 41 industrial corridor in Vanderburgh County. His notice that I put before you with an original copy handed to your secretary contains the boundary description prepared by our office for the land that we feel should be within this particular impacted drainage area should it be declared so. Generally, that would be described as being bounded on the south by Inglefield Road, on the west by Darmstadt and Princeton Roads, on the north by the Vanderburgh-Gibson County line immediately south of I-164 and on the east by Old State Road.

President Mourdock: Just as a question, Bill, is there any...do you know any statute that would allow us to cross county lines to continue into Gibson County if we chose to do so? I mean, is that something we should consider?

Bill Jeffers: No, I know of no statute or local ordinance that would empower you to do that.

Joe Harrison, Jr.: No, I'm not aware of anything that would permit us to cross county lines.

President Mourdock: I'm not suggesting we cross county lines--

Joe Harrison, Jr.: Right.

President Mourdock: Just from a development sense--

Joe Harrison, Jr.: Sure.

President Mourdock: --if it make sense for us that magic little line out there means nothing. Should we somehow get Gibson County involved with this?

Joe Harrison, Jr.: Yes, yes. There is no question that they ought to get a copy of this proposal and maybe they will consider the same thing for that same area on their side, yes. I can do that with Jerry Stillwell.

President Mourdock: Okay, fine.

Bill Jeffers: The Board is empowered by the County Drainage Ordinance to declare an area as impacted whenever the area is unlikely to be easily drained due to one or more of the following factors:

1. A history of flooding
2. Soil types
3. Topography
4. Land use
5. Lack of adequate drainage outlets
6. Location in the floodplain
7. Location in proximity to regulated drains
8. Location within a watershed of an overburdened drain or system of drains

The area described by the boundary given to you meets all eight criteria. The system of drains serving this area has been improved by your Board over the years to about as much as possible and still is overburdened during normal annual heavy rainfall events. You've heard this from residents and landowners in this farming community that the industrial/commercial development along this corridor has adversely impacted their lands and their ability to raise crops on their lands at times. Extra measures to control the release of storm water must be taken to protect the property downstream of rapidly developing areas within the described boundaries and by declaring this area an impacted drainage area additional requirements may be imposed on new development with regard to storm water storage and controlled release. These are the reasons why we bring this to you.

President Mourdock: Okay, and it is suggested here that the Board will hold a public

hearing at its regular meeting on Monday, October 26, 1998.

Commissioner Tuley: I'll so move.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Bill Jeffers: I have a rough map of the area if anyone would like a copy.

Joe Harrison, Jr.: As a part of that motion the notice, did that include the publication of the notice that is in front of you?

Commissioner Tuley: I'll second that. I'll so move, I mean.

Joe Harrison, Jr.: To consider the ordinance.

Commissioner Tuley: I amend my motion to include Joe's comments.

Commissioner Jerrel: I'll second that.

President Mourdock: I will again say so ordered then. Just to clarify for the meeting on the 26th, Bill, I don't know that you need to do it before then, but let's do have a map we can put on the wall in case people come in.

Bill Jeffers: Yeah, we'll have a...like I say, I have a rough hand drawn map, but we'll have a nice map for you to look at at that time.

President Mourdock: Okay.

Any group or individual wishing to address the Drainage Board

Bill Jeffers: Item VI-B, others wishing to speak. Jim Morley called early today and asked if the Board would indulge him. He would like to have a public hearing on the reconstruction of a portion of Stockfleth Ditch to enable the development of Vogel Plaza Commercial Subdivision by Woodward Realty and Mr. Morley is here to explain that.

Jim Morley: In that request Mr. Woodward had asked to be allowed to take the ditch that runs diagonally across the corner of the property and to put it in a large box culvert, turn it, move it over to the side and basically cut off the little triangle on the property to make it possible then to use. However, this is--

President Mourdock: Where are you at, Jim? Stockfleth at which property?

Jim Morley: Vogel...on the Stockfleth Ditch on Vogel Road just on the east side of Royal Avenue.

President Mourdock: Okay, gotcha.

Jim Morley: Between Royal and Burkhardt.

President Mourdock: Gotcha, okay.

Jim Morley: And Stockfleth. It is a regulated drain and therefore in order to pipe a

regulated drain or do any part of it that is classified as a reconstruction of a regulated drain.

President Mourdock: Okay, time out. We're out of tape.

Tape change

President Mourdock: Okay.

Jim Morley: Any reconstruction of a regulated drain requires a public hearing and so therefore for any portion of this ditch to be put into a pipe or to be relocated in any way that public hearing must take place. There is an issue relative to this that we need a decision on from, I guess, the attorney. Essentially similar to your work on the Crawford Brandeis Ditch to accommodate Burkhardt Road, there are provisions in the portion of the law on regulated drains and hearings calling for mailed notice to everyone within the drainage basin. It's not very well defined what it means by all of that. I think on Burkhardt Road that you ruled that a publicly announced meeting was satisfactory and you did not do a mailing to everyone. Mr. Jeffers and Mr. Brenner read it and tend to think, well, it's not really clear therefore it takes a ruling. So we...this, of course, is much smaller and much less total impact than the Crawford Brandeis Ditch. We would request that the advertisement of the hearing for this be found to be sufficient notice. If your determination would be that we had to mail notice I guess we have a problem in determining who to mail notice because these drains all become part of the East Side Urban Drain System and they're, I guess, within the city limits the only person you notify is the City of Evansville. And then I'm not sure about that, but I believe the City of Evansville pays the assessment. It's all confusing when you get to an urban drain, so therefore it's necessary to clarify this issue so that we can either advertise or provide notice to those that are necessary.

President Mourdock: Joe, do you have a recommendation for us as far as how we do need to proceed?

Joe Harrison, Jr.: I would like to look at it because at least in glancing at the statutory provision that you've given me it indicates that notice, you know...it appears...it contemplates notice being given and I want to see the boundaries. You know, I would like to see a diagram of the area contemplated and then let me review the law and go from there.

President Mourdock: Do I hear that you've got a time element that you're looking at, Jim?

Jim Morley: I think that while the subdivision plat has gone in for preliminary approval we cannot record the final plat and this Board has given...we have a detention basin and we have preliminary drainage approval, but we cannot record it until we finally have final approval and so therefore nothing can be...this lot cannot be recorded and so he can't go on with any further construction.

President Mourdock: If we had a very brief Drainage Board meeting next week, a special meeting, once Joe has had a chance to review that does that help? And then we could advertise a special meeting.

Jim Morley: I mean, if...yeah.

Joe Harrison, Jr.: Um, I'm not too sure that will give you enough time. The person who owns the property on which the regulated drain will be relocated will pay the entire cost of the project. Are you saying you believe it's the city?

Bill Jeffers: No.

Jim Morley: No, no. Mr. Woodward is going to pay the entire cost. No one--

Joe Harrison, Jr.: Okay.

Jim Morley: The entire work is one hundred percent on his property. The cost of the work is one hundred percent paid for by Woodward, but it is being done onto a regulated drain, therefore it has to come before you.

President Mourdock: Right, and therefore because other drainage ways lead into it and those drainage ways are back within the city and all that.

Bill Jeffers: Well, the reason I put this handout in front of you, when we first starting talking to Mr. Morley about that we were unaware of this, Section 52.5, that was added to the public law in 1995 because the books we're operating from were dated 1993. We just got our new set of law books delivered to our office a couple of weeks ago. I was thumbing through to see what changes had been made and discovered that if a project such as the one Mr. Morley proposes is all located on one parcel of property to be paid for by one owner of that property that your Board can bypass several notice requirements in Subsection B, 1 through 3. I thought this would aid Mr. Harrison in his determination...well, I just discovered this, you know, and I'm sorry that I didn't have this when I first talked to Mr. Morley. So here it is and all it would require is that County Surveyor investigate whether any other landowner in the watershed would be adversely affected and the only one I can think of off the top of my head is Mr. Koressel and if Mr. Koressel is a part of this, he has a subdivision immediately on the other side of the ditch. How he would be adversely affected is he is...they're moving the ditch over to where more of the easement would be on Mr. Koressel. If Mr. Koressel is brought into this hearing he would be the only one we would say needed to be notified.

Joe Harrison, Jr.: So I think technically from what they're saying I think at the next Drainage Board meeting, next month, as long as the specifications for the project have been approved, the project is going to be completed under the supervision of the County Surveyor, you know, all of the information is going to have to be filed with your office and I don't know if it has been yet, but it is going to have to be. As long as everything is filed and we can put a notice to that effect in the paper within the next two weeks that these projects are on file and they can be reviewed and there will be a public hearing to consider this request and you have the proper name of the ditch and where it is going to be reconstructed and regulated...I don't know, you may even have to have a little map. I don't know if you have to have that, but you could probably...maybe you could put something in the notice that would reflect the relocation if you can be that specific.

Jim Morley: Fine. I'll go ahead, although Mr. Koressel is also a client, I'll go ahead for the record and give an official notice to Mr. Koressel.

Joe Harrison, Jr.: Okay.

President Mourdock: So do we need to take any action this evening at all?

Joe Harrison, Jr.: The only thing that I would approve is that the publication of a notice

to consider the relocation of that drain and there will be a public hearing with respect to that relocation of the drain at our next Drainage Board meeting.

Jim Morley: Yes, on October 26th.

Commissioner Tuley: I'll so move.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Charlene Timmons: Is that something that the county will pay for, the notice?

Jim Morley: No, all the expense should be borne by Mr. Woodward, it's his request.

President Mourdock: Let the record show that Mr. Woodward--

Bill Jeffers: So Mr. Morley, I assume, and he'll probably signify by nodding his head one way or the other, will prepare the notice to be advertised in the newspaper and pay for the advertisement in the newspaper plus the certified mailing to Mr. Koressel. Is that correct?

Jim Morley: Yes.

Joe Harrison, Jr.: And I would like to review it, obviously.

Bill Jeffers: Before it is mailed or published.

Joe Harrison, Jr.: Yes.

President Mourdock: Okay, any other business to come before the Board?

Bill Jeffers: Yes, I had one phone call which the person answering the phone call didn't get the fellow's name. I am assuming it is this man left in the audience who wanted to speak to the Board tonight under others wishing to speak.

Thomas Mock: My name is Thomas Mock. I live at 8536 Edinborough Road in Edinborough Estates. I just wanted to start off by saying I'm a patient man and I get along very well with my neighbors.

President Mourdock: You're on our good side!

Thomas Mock: I have a proposal--

Bill Jeffers: Would you like a job as a Deputy Surveyor?

Thomas Mock: I spent years on City Council, so my heart goes out to you. I received a copy of this plat of the drainage plan in Edinborough Estates by Mr. Jeffers. I'll give that to you. I've highlighted the areas of concern. I live in Lot 38. This is a drainage ditch that is basically fed, as far as I can tell, from nothing. It flows into the drainage ditch that runs parallel to the rear of our properties. All the properties that are across Edinborough, there is a drainage ditch along the rear of their yards that flows to the south. This 15 inch existing line that comes from underneath the street into this drainage ditch between our lots ends here with a bell opening and according to this it is supposed

to be fed by these area drains of which none of them exist. So what is feeding this pipe I have absolutely no idea. Whetstine has started to build, as you know, in this area up here, this Broadlawn area. They had come in one time and marked the street and I assumed that was probably for these area drains where they were supposed to install them there. They do not exist. Very little water travels through this ditch and flows naturally through the drains. My proposal is to continue this 15 inch pipe. It's 112 feet to about this point here short of the north/south drainage area and then replace the bell housing at this end with some riprap at the end to cut down the flow of the runoff and then fill over the top of it with a little bit of drainage left for the runoff from this lot and our lot. There is natural drainage between my property line and the owner to the other side. This is the peak of the area here, so there is very little runoff that comes from these lots into this ditch. Everything else from here that runs across the lot goes down the curb and gutter and enters a drain at the corner.

President Mourdock: Okay, the plan you just described, I presume, Bill, you're hearing this for the first time as well?

Thomas Mock: I discussed it with him.

Bill Jeffers: We discussed it and I gave him this plan and informed him that if he could come up with an engineering drawing that showed the material he wished to use, how he was going to make the connection to the concrete pipe. If he chose to use plastic pipe he would have to have some type of a connecting structure to make the transition from concrete to plastic and show that it was going to be bedded in accordance with manufacturer's recommendations for whatever material he chooses to use and if he had a flared end section on the end of the new pipe that I saw no problem whatsoever. The plan you have in front of you was approved. It was drawn by Mr. Morley here for Edinborough Subdivision, Whetstine, Mr. Whetstine. I assume that the inlets were put in. They may be covered by someone's rock garden. They may have been on a change order. Some of them may not have been put in. That would have to be checked with the County Engineer. However, they were just area inlets to pick up some drainage from low areas that were created by the road being put in.

President Mourdock: What he has just proposed here this evening--

Bill Jeffers: I see no problem with it as long as the engineer drawing would be presented to our office so that John Stoll and I can share that and put it in our files and inspect it when it's constructed.

President Mourdock: Okay, my question is though should this Board act to approve such a thing until you see those engineer drawings?

Bill Jeffers: No, I would say that we should bring the drawings to you.

President Mourdock: Okay.

Bill Jeffers: Because they represent a change in the approved plan.

President Mourdock: Are you comfortable with that, Mr. Mock, working that up and getting that to Bill?

Thomas Mock: Any particular...just any engineer that could draw that up for me or is there some place specific I need to go?

President Mourdock: Yeah, we don't make recommendations. Despite what you heard earlier in the evening, we do not make recommendations regarding anybody like that.

Bill Jeffers: You should go to an engineer who is familiar with storm water drainage.

President Mourdock: Right.

Bill Jeffers: And the materials that you will be placing.

Thomas Mock: Okay, you mentioned...well, I won't mention any names, but you mentioned someone in the office. If I go to them as long as they're certified they can...I don't know if there is a certification.

Bill Jeffers: Well, there are actually several people you can go to that have knowledge of this particular plan, there are three or four different ones.

Thomas Mock: Okay.

President Mourdock: Thank you.

Thomas Mock: And then I can just bring that and present it for the next meeting?

President Mourdock: Sure, just give it to Bill. If you--

Bill Jeffers: Just bring it to our office and I'll bring it in front of them.

Joe Harrison, Jr.: He is in Room 325.

Thomas Mock: Yes.

Joe Harrison, Jr.: And it very well could be that they could consider it next month at their meeting.

Thomas Mock: Okay, thank you.

President Mourdock: Okay, thank you, and, again I appreciate your patience as well. Any other comments or any other business to come before the Board?

Commissioner Jerrel: Move that we adjourn.

Commissioner Tuley: Second.

President Mourdock: So ordered.

The meeting was adjourned at 8:19 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
Kenneth Rasche
Jan Bollinger

Tom Heerdink
Mike Rasche
John F.W. Koch
Fouad Hawa
Joe Ream
Wallace Stremming
Jim Morley
Thomas Mock
Others unidentified

**Vanderburgh County
Drainage Board**

Richard E. Mourdock, President

Bettye Lou Jerrel, Vice President

Patrick Tuley, Member

**Vanderburgh County
Drainage Board
October 26, 1998**

Call to order

President Mourdock: I'd like to call the October 26, 1998 meeting of the Vanderburgh County Drainage Board to order. We have our minutes...I'm sorry, the agenda that has been prepared by the County Surveyor's Office, Mr. Jeffers.

Approval of minutes

President Mourdock: The first item of business as always is to approve the minutes from our prior meeting which was September 28th. Is there a motion to approve those minutes?

Commissioner Jerrel: I'd like to move approval of those last month's minutes.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Update - Rasche petition

President Mourdock: The first item under old business is an update on the Rasche matter and I'll turn to the County Attorney for that one real quickly unless, Bill, you have something else to add.

Joe Harrison, Jr.: I don't really have anything else. We sent out a letter about a week ago. I sent a letter to the Commissioners as well as copies went to Mr. Heerdink, Mrs. Rose and Mrs. Rasche essentially setting forth the fact that this Board back on November 25, 1996 ordered Mrs. Rasche to remove the drainage obstruction including the replacement of an undersized and partially clogged culvert on her property. That order of this Board was affirmed by the Warrick...I'm sorry, the Gibson Circuit Court in its ruling back on November 25...let me see what the date of that ruling is again. The ruling was November 10, 1997. In the letter that I submitted to you all it went on to say that according to Mr. Jeffers' report restoration of said open waterway as it existed prior to the filling of the ditch with dirt, replacement of the undersized and partially clogged culvert behind Respondent's 20 Mill Road address, clearing and cleaning of the part of the subject waterway downstream of just said culvert and proper maintenance of the whole of the subject waterway would promote better drainage of the Petitioners' properties by effectively intercepting and conveying storm water runoff away from the properties of the Respondent and the Petitioners. There was some discussion as to what exactly this Board ordered and what the court affirmed and my letter sets that forth and Mr. Jeffers may have some other feelings as to this matter, but it would be my recommendation that Mr. Jeffers at some point go back out on that property and see if the order of this Board has been complied with and if the order of this Board has still not been complied with that at this Board's direction we could go to the Gibson Circuit Court and seek to find Mrs. Rasche in contempt of this Board's order and that Court's order, more importantly, because that would be the order that has not been complied with.

President Mourdock: Bill, do you have an update?

Bill Jeffers: As of 5:15 p.m. today the order had not been fully complied with as

described in the information handed to you tonight by Mr. Harrison. Mr. and Mrs. Heerdink are here and they may be able to tell you whether it has been complied with at this time or within an hour of this time.

Commissioner Tuley: I wouldn't think so.

President Mourdock: And when you say that it hasn't been primarily or substantially completed you're referring specifically to that pipe, I presume?

Bill Jeffers: Specifically to the clogged pipe.

President Mourdock: Okay. Okay, I don't know if Mr. Heerdink...okay, Mr. Heerdink has nothing to add. I think probably the only thing for this Board to do at this point, Joe, and correct me if I am wrong, but it is just basically to reaffirm that the letter you sent out was fully appropriate and to decide at this point whether or not we want to petition the Gibson County Court to issue the contempt citation or to give this a little bit of time and see if she gets the work done. The letter was sent when?

Joe Harrison, Jr.: The letter was sent October 21st so that would have been less than a week ago, so she probably would have received a copy of that letter just a couple of days ago. The prudent thing to do may be to permit them...I know you hate doing this, but it may be to permit them a few more days within which to try to comply with this, but that is certainly up to this Board.

President Mourdock: Okay, any comments from the Board as far as the timing?

Commissioner Tuley: The letter didn't specifically address how much time they had?

Joe Harrison, Jr.: No, I mean, they technically had to comply with it several months ago. You know, this Board really should not be changing its original order saying you have this amount of days or that amount of days. They're not in compliance. Mr. Jeffers has been out there on several occasions. You know, you can either direct him to go out and check it a few more...one or two more times between now and the next Drainage Board meeting or you can direct me to file an action up in the Gibson Circuit Court.

Commissioner Tuley: If I might be so bold, let's just give them another week and if by...what is that, the 2nd? Even though we won't be meeting if by the 2nd of November if there has not been completion of that court's order, which they appealed and then court upheld our position, then if Mr. Jeffers can contact Mr. Harrison, I think at that time we ought give Mr. Harrison permission to file whatever he needs to file with the court and get the cited for contempt. That's not worded very well, but that is what I am trying to get to.

Commissioner Jerrel: And I'll second that motion.

President Mourdock: Okay, motion made and seconded and I will say so ordered. So if you would sometime on the morning of the 2nd, that Monday, check it out and then let Joe know your findings, please.

Bill Jeffers: Yes, sir.

President Mourdock: Okay, thanks, Bill.

Bill Jeffers: Rather than burden the Board with any comments, I would like to enter the first two pages of my script into the record that the Recording Secretary keeps. Basically there were some comments made by Ken Rasche at the last meeting that I take exception to and if anyone would like to find the reasons why I take exception to Mr. Rasche's comments they can look at the back of the minutes of this meeting and read what I would have said in the microphone.

President Mourdock: Okay, just to formalize that is there a motion to accept the Surveyor's record for the minutes?

Commissioner Tuley: So moved.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

<p style="text-align: center;">Public hearing North US Highway 41 corridor impacted drainage area</p>
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President Mourdock: Item II-B is North US Highway 41 corridor, the impacted drainage area hearing.

Bill Jeffers: Again, Mr. Harrison has forwarded you the language for the amendment of the ordinance. The Surveyor participated in the drafting of the language and recommends the adoption of this amendment to the ordinance so that basically if there are any questions from the audience what this amendment would do is up the detention requirements from detaining a 25 year storm after development and discharging it as a ten year storm pre-development to detaining a 100 year storm and discharging it as a ten year storm.

President Mourdock: Okay.

Bill Jeffers: And if anyone in the audience would like to read that language we have it available for them. There were some people that expressed an interest in it.

President Mourdock: Okay, is there anyone in the audience who wishes to address this issue? Mr. Ellison.

David Ellison: If I may.

President Mourdock: Sure.

David Ellison: I'm David Ellison, I'm with Big Creek Drainage Association or representing Big Creek Drainage Association this evening. I appreciate all the work that Bill has did on this. I was wondering if possibly we could take this a step further and maybe with the SWCD Office, and Chris Lee, and maybe Rick Noble, and with the Surveyor's Office, with Bill Jeffers, our County Engineer, John, and possibly any developer or any engineer out on the 41 corridor maybe sitting down and putting our minds together and maybe this ain't going to work for them and maybe this ain't going to work for us. I guess what I am after is what can work for all of us and keep us on an even playing field. Does that make any sense to the County Commissioners or does it make any sense to you, Bill?

Commissioner Jerrel: Help me out, what are you wanting us to do?

President Mourdock: Let me question first, you understand what this is about, Dave? What it is meant to do anyway?

David Ellison: Right, but I don't know exactly how it is going to impact on us or how it is going to impact on the development of 41. I guess that is what I am saying, okay?

President Mourdock: Okay, let me just take a shot at that.

David Ellison: Okay.

President Mourdock: Arguably, and correct me if I am wrong any of you knowledgeable folks, by going to the higher standard it is basically going to cause some more money to be spent when people develop these properties by putting in larger detention basins or larger control structures. Inversely it means that slightly less acreage would be available ultimately for development because you're going to have to have more storage area and less developable land, so beyond that is there an impact? I mean, not that that's a small thing.

David Ellison: No, I understand that, but we went through this once before and then we've had some building out there like no more runoff than we've runoff what was previously there, okay. Well, maybe that plan was justified, but maybe the rains that we're having has curtailed...well, that's not a good word. It's not handled the water the way we can handle it in our ditch today, okay. You can talk to anybody up and down the 41 corridor in Posey County or wherever, anywhere in southern Indiana, everybody's ditch banks are overflowing. It's got to be a problem other than what has been proposed as far as retention, okay. Maybe we need better retention. Maybe...that's what I am saying. I want to come up with a plan that we don't have to come down here in another ten years and say, hey, we screwed up again or we did this or that or what have you. I would like for these people, the developers and everybody else to know that we're all on an even playing field and we all understand what everybody wants. We want to raise crops. These guys want industry. We all need each other. Does that make sense, Bill? If anybody else wants to talk to this, Mr. Bittner is here and Mr. Bootz is here.

Bill Jeffers: It makes sense, but from a practical point of view I don't believe the Indiana Department of Transportation talked to anybody before they raised their standards from nothing to 50 year/10 year. What they were experiencing is that the pipes they put underneath state highways were not handling the storms so they arbitrarily picked a 50 year post development and 10 year predevelopment detention and enforced it in any water being discharged into their right-of-way. Also from a practical point of view there is a huge development coming in at Volkman and 41 and I will be receiving the final drainage plan as soon as December and if you would like to stall this off and watch that one go in under the current guidelines then postpone the hearing.

Jim Morley: I'm not answering that!

Commissioner Jerrel: I think everybody is saying the same thing. We're going from a 25 to 100 reduction to a 10 year, so we're just tripling almost what we have now, so I think that is the goal and I don't hear anybody objecting to that, right?

Bill Jeffers: There are other aspects of the ordinance that would be well worth examining

for amendment and those are the...and I'm sure there are many issues that can be discussed at a forum that Mr. Ellison rightfully is seeking where we can sit down in a forum and discuss other issues where the ordinance could be beefed up where it needed or relaxed where not needed. Our office is more than willing to do that with all the other offices and with public input. For example, this particular thing you have in front of you does not state that...it's implied, but it does not state that the detention facility shall be fully operational during a 100 year storm. I didn't think of that until I was coming back to the building today. Somewhere in the ordinance it needs to state that detention facilities shall be functional during the storm for which they're designed. In other words, you couldn't just go out in a piece of waste 100 year floodplain land and construct one of these things that would be fully submerged during a 100 year storm therefore not operating. So, you know what I am saying? A little trick basin out in the woods.

President Mourdock: A dry basin?

Bill Jeffers: Yeah. Where, yes, it would operate in an isolated 100 year event, but if the entire watershed were under a 100 year flood it would not be operating, it would be overcome.

President Mourdock: I understand.

Bill Jeffers: So, yes, there is plenty of room for what the farmers are experiencing. Not just the affects of accelerated runoff, they're experiencing the gross affects of everything combined, accelerated and prolonged runoff. Yeah, we might want to speak in terms of total runoff, not just runoff in cubic feet per second, but runoff over the entire period of the storm.

President Mourdock: Could you wave your finger over the map, pull the map down over there and just show us the whole area that you've laid out with this, Bill.

Bill Jeffers: Okay, this area begins at Inglefield Road and what's called Darmstadt or Old Princeton Road just north of Salem Church and runs right down the center of Princeton Road all the way to the county line which is right below I-64. Then it runs east to Old State Road just below the overpass of I-64 and then it runs down Old State Road back to Inglefield at PPG and then runs back over to the point of beginning at Darmstadt and Inglefield. So it is everything approximately a mile each side of 41 from Inglefield north to the north county line.

President Mourdock: Okay. I was thinking the subdivision you mentioned earlier was not going to be in it, but it clearly is going to be in this.

Bill Jeffers: It's...I believe the subdivision that I am anticipating receiving a preliminary drainage plan at the November meeting is at Volkman and 41.

President Mourdock: Right.

Bill Jeffers: And it's a multi use subdivision, I believe.

President Mourdock: Four hundred homes, I think. Okay. The will of the Board is?

Commissioner Jerrel: Well, I would like to make a motion to...this would be the first reading?

President Mourdock: Uh-huh.

Commissioner Jerrel: To enter this amendment into the county Storm Water Drainage Control ordinance.

Commissioner Tuley: Notwithstanding Mr. Ellison's comments, I think Bill has given us a reason to go ahead and move and we can come back and explore the other options later, so I'll second your motion.

President Mourdock: Okay, and since it is an ordinance, roll call vote. Commissioner Jerrel?

Commissioner Jerrel: Yes.

President Mourdock: Commissioner Tuley?

Commissioner Tuley: Yes.

President Mourdock: And I vote yes and also would add to what you just said, Pat, that this doesn't mean that all other discussion ends. It's hopefully a place of beginning that we can continue to work on this.

Joe Harrison, Jr.: The, if I could, final reading by this Board will be the 23rd of November. The Commissioners will also have to approve this, so I figure a first reading for the Commissioners will be on November 9th, we could do it on the 9th, and then the final reading by the Commissioner would be the 30th. The ordinance will take effect the 1st of December, if that is okay. Thank you.

President Mourdock: Alright, thank you.

Vogel Plaza/Stockfleth Ditch reconstruction hearing

President Mourdock: New business.

Bill Jeffers: As painless as that appears to be so far I would like to bring something like that to you two or three times a year. You know, one for the east side and then as we--

President Mourdock: Absolutely.

Bill Jeffers: --start finding some other problems in the ordinance that could be loopholes or just holes in the dike that we could patch and bring them to you every two or three months.

President Mourdock: No pun intended there. None taken.

Bill Jeffers: The next item is a scheduled reconstruction hearing for a small portion of Stockfleth Ditch. The developer of Vogel Plaza, Mr. Woodward, has decided to reconstruct Stockfleth Ditch as an open channel rather than through a pipe as previously planned. His reconstruction plans have been reviewed by the County Surveyor and found to be sufficient. The developer and his engineer, Jim Morley, are both present tonight for your questions. The only property owner that we found to be affected, other than the County Commissioners as owners of Vogel Road, is Mr. Alan Corressell, developer of Corressell Court Commercial Subdivision immediately west and adjacent

to Vogel Plaza. Mr. Corressell called me this morning and stated he understood the impact of the reconstruction on his land and did not object to it. Mr. Corressell's only stated concern during his conversation was that he would like enough fill dirt from the excavation of the ditch to compensate him for the dirt he anticipated from the excavation of his retention swale. The swale will be eliminated by this proposed reconstruction. I suggested Mr. Corressell put his request for the dirt and his acquiescence to the proposed project in a document. That document is not available to the Board tonight, but I reiterate that he had no--

President Mourdock: Objections?

Bill Jeffers: --objections and I think he should take up his request for dirt compensation deal with Mr. Woodward directly. Again, the developer and the engineer are here for your questions. Here is the plan. I don't think I brought my copy, but the pink outline stripes are the top of the new bank proposed by Mr. Woodward. The solid red thin line is the old top bank of the existing ditch. The green shaded area is what will become the 25 foot maintenance strip because they are asking for a 25...a relaxation to 25 foot for the top of the bank. The yellow area represents the area gained by the developer for the development of Vogel Plaza to show you why he wanted to do this which is very logical. The blue area is the detention basin that Mr. Woodward will be excavating for his small three lot development plus compensating for the loss of the drainage swale on Mr. Corressell's subdivision. He'll be storing water in Vogel Plaza that previously would have been stored in Corressell Court. That is why that basin is so large. The textured portion of the ditch, that represents riprap. The design engineer had picked riprap as a channel liner because our ordinance requires slopes of 2% or 1 ½ to 2% to be revetted with riprap. The developer is going to ask you tonight to allow him to use other forms of erosion control which we have no objection to so long as he guarantees to do the work, direct it to be done, and guarantees the stability of whatever material he does use for a period of time, possibly up to ten years. We will maintain the ditch by mowing and spraying, however, if his erosion control fabric does not...or his erosion control application fails to maintain the banks stable he is guaranteeing that he will come back in and do what is necessary to make them stable. We've reviewed the...I've already said that. We reviewed the plan and we recommend approval of the reconstruction plan shown before you for the portion of Stockfleth Ditch within the boundaries of Vogel...what is known as Vogel Plaza Subdivision.

President Mourdock: Okay, so we actually have two parts to this. The first part is that this is a hearing for the reconstruction and are there any other comments before the Board this evening on this particular hearing? Mr. Woodward.

Bob Woodward, Jr.: My name is Bob Woodward, Jr. for the record. As Mr. Jeffers said, we're going to replace that riprap with some type of a stabilizing material, probably at Mr. Morley's direction. The riprap makes it extremely hard to mow and to keep in place and to look nice, so we're going to do something that looks better than that and we guarantee to maintain that to make sure that the bank is stabilized for a period of ten years.

President Mourdock: Okay.

Commissioner Jerrel: I would like to move approval of the reconstruction of this Stockfleth Ditch in the Vogel...or in the...am I correct in saying the Vogel area?

Commissioner Tuley: Vogel Plaza.

Commissioner Jerrel: Vogel Plaza.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: It's a subdivision that has been filed as Vogel Plaza.

Commissioner Jerrel: But it is Stockfleth Ditch.

Final drainage plan - Vogel Plaza

Bill Jeffers: Yeah, Stockfleth Ditch. Okay, keep that in front of you because the first item...or did you all vote, I'm sorry?

President Mourdock: Yes, we did on the reconstruction plan, but now we need the drainage plan, so go ahead.

Bill Jeffers: Right, keep that in front of you because the next item is the final drainage plan approval of Vogel Plaza. That is the drainage plan. I have the book of calculations that our office has reviewed. That shows you basically the ditch, the pipes entering the ditch from across Vogel Road, from Corressell Subdivision, from the existing county highway side ditch along the north side of Vogel Road, the proposed basin and its pipes and other drainage facility features for the building that already exists on one of the lots, the bread store, etc. Also, we have reviewed this plan and the County Surveyor's Office recommends approval of the final drainage plans for Vogel Plaza.

President Mourdock: Is there a motion?

Commissioner Tuley: I'll so move.

Commissioner Jerrel: And I'll second that motion.

President Mourdock: So ordered.

Final drainage plan - Heartland Ridge, Sections II and III

Bill Jeffers: Item III-B2 is Heartland Ridge, Section II and Section III final drainage plan. Billy Nicholson, the engineer for Heartland Ridge, has incorporated some items into this final plan to address and correct some minor problems along the outside boundaries of the project that affected neighbors. We went out in response to a couple of complaints from neighbors to the north of the sub that had already been constructed and found a way...Billy Nicholson found a way to drain their problem areas through this plan and back into the creek. The Surveyor wishes to thank Mr. Nicholson for the improvements to this plan and we recommend approval of the final drainage plan for Heartland Ridge, Section II and Section III.

President Mourdock: Any discussion regarding Heartland Ridge, Sections II and III from the audience? Seeing none, is there a motion?

Commissioner Tuley: I'll so move.

Commissioner Jerrel: And I'll second.

President Mourdock: So ordered.

Final drainage plan - Camden Farms

Bill Jeffers: Item III-B3, is Camden Farms final drainage plan. This is the second month that we've carried Camden Farms on the agenda for final approval. For your information it is located immediately east or southeast of Windemere Farms at the intersection of Kansas Road and State Road 57. Last month we postponed approval waiting the Indiana Department of Natural Resources confirmation of Keith Poff from Sitecon who represents the developer of a 100 year flood elevation study following Indiana Department of Transportation's reconstruction of the State Road 57 bridge over Furlick Creek. You may have that in your notes from McJohnston Place. We were a little concerned about the affect that shrinking that waterway opening might have on upstream properties. The developer of Camden Farms tonight is requesting approval of his final drainage plan because he anticipates DNR will confirm Mr. Poff's figures prior to your Board's November meeting. He has been waiting for that confirmation for a couple of months. If you approve the final drainage plan for Camden Farms tonight the developer will record his plat only after DNR confirmation of Poff's study and the incorporation of Mr. Poff's DNR approved flood protection grades into the final drainage plan. The reason this drainage plan has some red marks on it is Keith and I were looking at it this afternoon. There is an anticipated residential development immediately to the west of here and I asked him to up size some of the easements passing through Camden Farms to allow emergency overflow from the anticipated residential development to the west. That's basically what those...you might see like 100, that means for a 100 year overflow or 50 for a 50 year overflow, etc. He has done that in red because he didn't have time to do it on the plotter. The County Surveyor's concern with regard to Camden Farms and all other projects upstream of State Road 57 on Furlick Creek has been, is and will continue to be the potential flood hazard to structures if the new bridge opening becomes partially or completely obstructed during an extreme rainfall event. More particularly if the new bridge opening is obstructed during an extreme event State Road 57 essentially becomes a dam. If the floodwater tops State Road 57, all the finished floors upstream at a lower elevation than the pavement of 57 may be inundated. What I am saying there is that the water is forced to go over the top of 57 and anything that is lower than the surface of 57 could be flooded. Therefore, the County Surveyor wishes all persons concerned with building or occupying a dwelling or structure upstream of SR 57 along Furlick Creek to be aware of the County Surveyor's concern and have the opportunity to set their flood protection grades above the elevation of State Road 57 regardless of what DNR determines the flood elevation to be and regardless of what other agencies require. Basically what I am covering there is our office's responsibility and your Board's responsibility to look at eventualities even in the most extreme situation. What I am saying this for is I anticipate...I went out there with Mr. Poff earlier this week and I showed him how high I remember the water getting during the June 9, 1996 storm. The reason I went to that site on June 9th of '96 is because the McCutchanville Fire Department Captain had come in here at a previous meeting and told you that Seib Road flooded and that was one of his major concerns for that area that was being developed. So I had made marks on the pavement and Mr. Poff checked those marks and that was three and two-thirds inches in like 54 minutes at the airport which is right across the street. That is like in the neighborhood of a so-called 300 year storm. Those elevations are below the surface of State Road 57, well below. I anticipate that DNR is going to confirm that the 100 year flood will not crest 57, but I am looking at what happens when the bridge become obstructed and I just want to make that comment right now for the

record and that way if a person wants to come in and go above and beyond what the Building Commissioner sets as a finished floor elevation in accordance with DNR they have the opportunity to be forewarned and forearmed. Any questions with regard...we're going to recommend that you approve the plan with the stipulation that Mr. Poff and Mr. Buck not record this plat and obtain any building permits until they receive confirmation from the Indiana Department of Natural Resources as to the 100 year flood elevation and the flood protection grades that will be incorporated into this plan.

President Mourdock: Realizing that is the understanding, let me play what if for a second. What if they go ahead and do it anyway, does that invalidate our approval?

Bill Jeffers: The Area Plan Commission brings...when a developer takes a plat to Area Plan Commission and requests that it be numbered and recorded the Area Plan Commission brings that mylar or a copy of that mylar to the County Surveyor's Office and asks us to check everything we were responsible for during the review process to make sure it hasn't been incorporated on the plat and then we have a transmittal form that we sign and send that back over to Area Plan Commission and I have not seen a major sub recorded without...it's done with several offices, County Engineer, Building Commissioner, etc. I have not seen a subdivision recorded in the last several years without those being in.

President Mourdock: Just playing another version of what if, would we three years ago...should we three years ago have done with this area what we did tonight with 41 as far as the impacted drainage area? Would that have much relevance here?

Bill Jeffers: No, sir, because actually one of the main reasons we're going for this is this particular basin that Mr. Poff has provided in this plan will store a 100 year storm and release it as a ten because he is after dirt. That particular facet of our ordinance would not have played into this. The only thing that we could do to change our ordinance to address what the County Surveyor is concerned about with regard to this subdivision would be to say something about the fact that you're building behind a dam. I mean, that houses should be elevated above the road in front of it or downstream of it, but that's not a...as far as I know and as far I could read that is not a requirement of any local ordinance included in the floodplain management ordinance. I think it should be in the floodplain management ordinance myself.

Commissioner Tuley: The only question I have, and I don't...I'm not worried about them going out and building without getting all the approvals they need, but, Bill, your last paragraph there:

"Persons concerned with building or occupying dwellings or structures upstream of State Road 57 be aware of the Surveyor's concern."

How are we going to do that? Are we going to do that through the recording?

Bill Jeffers: I'm not asking you to do that. I wish we could, but--

Commissioner Tuley: So you just want to state it for the record?

Bill Jeffers: --I personally think that's a moral or ethical obligation of the people that are selling these lots. I mean, that's the way...I mean, I feel strongly about that. I feel strongly we don't need all these ordinances if people took the right attitude and said, hey look, this is what the government requires, however, you know to be fully protected in all situations from now to eternity you may wish to add another two or three feet of fill but

it is going to cost you bam, you know, and then lay it out. A convenience store that locates there if they wish to have that expense they would do it. I mean, it's just standard practice--

Commissioner Tuley: If it was that way we wouldn't need policemen or lawyers--

Bill Jeffers: --to build your houses two feet above the street in front of you.

President Mourdock: Okay, any other discussion on final drainage plan for Camden Farms?

Bill Jeffers: Mr. Poff is here if you have any questions to address to him.

Commissioner Tuley: As per the Surveyor's recommendation I would move approval subject to the conditions laid out.

Commissioner Jerrel: Second.

President Mourdock: So ordered.

Preliminary drainage plan - Broadlawn Estates II

President Mourdock: For preliminary we have tonight Broadlawn Estates, Section II.

Bill Jeffers: Ah, no preliminary drainage plan was submitted prior to this meeting for Broadlawn.

President Mourdock: Okay, other business.

Bill Jeffers: Is that you, Broadlawn?

Unidentified: Yeah, there is no (inaudible).

Bill Jeffers: They're treating it as a brand new subdivision at Area Plan.

Jim Morley: How does that effect the fact that this Board approved it as is?

President Mourdock: Sure.

Jim Morley: Broadlawn Estates is a development by Whetstine on Heinlein Road. The drainage plan for this subdivision was brought before this Board and this Board approved the preliminary drainage plan. Mr. Whetstine--

President Mourdock: Was that some time ago, Jim?

Jim Morley: Three years ago.

President Mourdock: Okay.

Jim Morley: Approximately three years ago. Mr. Whetstine had 18 months to finish and record, his subdivision was approved, a drainage plan was approved. He received a letter from our office saying you've got 18 months to approve or get this recorded, finish it up and record it, or you can request a one year extension. He did both. His one year

extension expired two or three months ago. He for whatever reason missed the date despite us having sent him a certified letter, you've got to do this. There are no changes so we refiled the plat. The Plan Commission said, well, you have to have drainage plan approval. I said, why, we have drainage plan approval. There is not one change on the plat. The only change on the plat is the date. We've gone before the Board. We came before the Board on the same ordinance that we're under today. We have no change in the standards and I...so far as I know a drainage plan does not expire. You have no expiration. You have no 18 months or it expires or if he gets an extension, so I didn't understand why the Area Plan Commission asked it to be presented to Bill and I still don't. I have no idea why I would give you another piece of paper that you've already approved unless you feel that you have some sort of expiration on your plan.

Bill Jeffers: The only explanation I can give you will probably get me in a lot of trouble legally. I guess that is why we have a lawyer here.

President Mourdock: Do you really want to go there, Bill?

Bill Jeffers: No, I don't really want to go there either.

Jim Morley: You don't need to, Bill.

Bill Jeffers: The plan for Broadlawn...the plan that is in effect for Broadlawn Subdivision to the best of my recollection was approved by the Drainage Board prior to 1994 and doesn't carry the same stringent notices and enforcement powers that plats and drainage plans subsequent to 1994 carry and currently county inspectors are viewing what portion of Broadlawn has been represented to be complete and it is not complete and they're having trouble enforcing the completion of it. I don't have all the details, but one comment disturbed me enough that I am playing this game and that was "I have already sold the lots, I'll let the people that bought the lots finish the drainage plan". No, not going to happen, okay. I can't confirm that comment was made, but I can confirm that it was passed along. So all I am asking here...I will stand here right now today and recommend the final drainage plan...or the preliminary drainage plan, excuse me...I'll recommend for preliminary reaffirmation the drainage plan for Broadlawn, Section II with the stipulation that the enforcement powers and the plat notices under the 1994 notices be included on the plat and that the inspection powers and the enforcement powers under the 1994 ordinance be heaped up upon this subdivision.

President Mourdock: Joe, do you have any comments?

Joe Harrison, Jr.: It's just preliminary.

Commissioner Jerrel: Alright, I'll move approval of the preliminary drainage plans with the caveats that Bill Jeffers has outlined.

Commissioner Tuley: Second.

President Mourdock: So ordered. Okay, now.

Jim Morley: I would like to add and go ahead and clarify something that came to our attention from the County Engineer and maybe ask...it seems that what Mr. Whetstine did on some of the pipes that he has installed is he has got some plastic PVC pipes under the pavement. Our drawings show concrete pipes. We don't show what he installed. John Stoll says I'm not going to accept that. Now I know that you, as

Commissioners, went through some very frustrating times as the plastic pipe lobbyists were down here before you saying, hey, you can't keep us from, you know, marketing our wares and providing our pipes, but therein lies a portion of the problem that John Stoll has a problem with right now. John is of the opinion, hey, take them out. The drawings showed concrete, take them out and put them back in. We do have a problem. You know, we're not able to carry through on a day-to-day inspections, these guys they get done with and they may change us and it's not what is on our drawings, so I want to assure you that, you know, our drawings showed it the way it was supposed to be done. Despite every best effort these kind of things turn up, so for all I know you're going to have a request coming from the developer when he decides how much it is going to cost him to tear these plastic pipes out underneath this pavement. I don't know what is going on, but John Stoll is not ready to accept them. He says, as far as I'm concerned plastic is alright out beyond the right-of-way, but not under the pavement. That's really kind of been part of this issue that Bill is into or has heard about and, you know, John is the one who does the final inspection.

Bill Jeffers: John's opinion is based upon INDOT, Indiana Department of Transportation's specifications which are included in our drainage ordinance and that is why. He is rightfully of the opinion that he has. I would not have stood up here and recommended Mr. Morley's plan if the drawings didn't show exactly what should be there. I am only asking for the enforcement powers to be attached to this subdivision.

Blue claims

President Mourdock: Okay, other business, claims.

Commissioner Jerrel: Move approval of the claims.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Joe Fisher, 405 Hunters Green

Bill Jeffers: Okay, Joe Fisher ran an inquiry through your office, we received it from Tony and I would like to submit for the record our reply to Mr. Fisher. I sent copies through Tony to you. I don't know how many of you have them with you tonight.

President Mourdock: Is Mr. Fisher in the audience?

Bill Jeffers: I don't think Mr. Fisher is in the audience.

President Mourdock: Okay.

Bill Jeffers: Basically, he had a ditch in his backyard, or a drainage swale out there in North Greens. His neighbor told me on the phone that Mr. Jagoe came out there and said, yeah, he could build a ditch if he put a pipe in there. He hired a contractor who says he did it right. The pipe, I say, appeared to be 10 or 12 inches in diameter. He told me it was eight inches. Our minimum pipe size is 12, so I told Mr....rather than go through this whole thing, I just simply told Mr. Fisher he had a choice. He could come to you, the Drainage Board, and ask you to enforce the plat restrictions that no one can obstruct a drainage easement in Hunters Green, that's on the plat, or he can go through

the petitioning process to seek removal of the pipe. All that is pretty much documented in what I handed the Recording Secretary and I'll leave it at that at this time and wait for Mr. Fisher to take his turn at the podium.

Mick Murphy - Permission to locate sign in drainage easement

President Mourdock: The next issue then is regarding a sign location in a drainage easement.

Bill Jeffers: Mr. Mick Murphy of Tri-Out Outdoor Advertising is requesting a sign location and I believe it's a billboard, in a drainage easement located at 5625 Vogel Road. That's Don's Cleaners new location at the corner of Vogel and Royal. The drainage easement behind this lot is 30 feet wide due to it used to be one half the anticipated right-of-way for Royal Avenue. However, Royal Avenue was built about 300 feet to the east of here, so that 30 foot drainage easement...excuse me, that 30 foot right-of-way was transformed into a 30 foot drainage easement to house a long narrow detention basin. However, at the location Mr. Murphy is asking for a sign location the storm water from the basin is carried in a 24 inch pipe under Vogel Road to the north side and there is sufficient clearance between the pipe and the location of which Mr. Murphy would like to place the sign. We would have no problem with repairing, replacing, maintaining, etc., the pipe at that location. I have all the details shown on various drawings and the description of the strip Mr. Murphy is requesting to use is a 30 foot north/south and 10 foot east/west strip located along the east line of a drainage easement and more particularly described as commencing at the northwest corner of Lot 9, 5625 Vogel Road, Ryan Commercial Court, Phase 2; thence along the north line of said Lot 30 feet to the east line of the drainage easement; thence south along said east line 30 feet to the point of beginning of the sign plot; thence continuing south along the said east easement line 30 feet; thence west 10 feet; thence north and parallel with said east easement line 30 feet; thence 10 feet back to the point of beginning.

President Mourdock: Okay, is there a motion to approve the use of the drainage easement for that sign? Joe...I think Joe has a question or comment.

Joe Harrison, Jr.: Could we do an agreement, you know, a similar deal where we could have them indemnify us and hold us harmless?

Bill Jeffers: Yeah, you're right, and it also should say that this does not exempt Mr. Murphy or Tri-Out Outdoor Advertising from all other permissions, permits--

Joe Harrison, Jr.: That maybe required.

Bill Jeffers: --that may be required other than what we're granting here.

Joe Harrison, Jr.: So if we could have a similar...I think you've got a copy of that, but you and I can talk about it, but if we can have that caveat that would be conditional.

President Mourdock: So shall we proceed this evening then to go ahead and grant the easement conditionally upon receiving those documents?

Joe Harrison, Jr.: Yes.

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

Commissioner Tuley: I will second.

President Mourdock: So ordered.

Reconstruction of Kolb Ditch

Bill Jeffers: The last real item I have here is Kolb Ditch at Shoshoni Drive and Covert Avenue. The Parks Department jumped the gun while building the new park, I believe which will be known as Jim Price Park on Aztar land on Covert Avenue. The Parks Department contract has already rerouted Kolb Ditch. It used to be straight. They made it serpentine. It's very beautiful the way they did it. They're presently building parking lots and service roads adjacent to the ditch and across the ditch. This is going to be for ball fields and other recreational uses. It has a bath house. There is only one glitch. A project like this requires a reconstruction hearing the same as you just had for Vogel Plaza. It was inadvertent on part of the Parks Department. They have submitted plans to our office. We're presently reviewing them and are now asking for your permission to hold a reconstruction hearing next month on this matter.

President Mourdock: Is there a motion to hold a special Kolb Ditch relocation hearing at the November 1998 Drainage Board meeting?

Commissioner Jerrel: So moved.

Commissioner Tuley: Second.

President Mourdock: So ordered, and Joe regarding posting notice, I suspect?

Joe Harrison, Jr.: Yeah, we'll need a motion to approve a legal notice ad to go into the paper. November 23rd will be the hearing, so I'll have to talk to Bill and we can get something in the paper.

Bill Jeffers: I think we can pay for all this because there is no reason to rob Peter to pay Paul with both of them being government jobs.

Commissioner Jerrel: Okay, but I'll move that we do advertise for this legal advertisement for the November 23rd meeting.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Letter - Gary Williams, Astoria Subdivision

Bill Jeffers: The only other item of new business that I have is to enter a letter from our office to Mr. Gary Williams, developer of Astoria Subdivision with regard to a request that he made regarding Lot 5 of that subdivision.

President Mourdock: Is there a motion to accept that letter for the record?

Commissioner Jerrel: I'd like to approve the letter from Mr. Gary Williams regarding

Astoria Subdivision for the record.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Any group or individual wishing to address the Board

President Mourdock: Okay, anyone from the audience wishing to address any other issue before us this evening?

John Bittner: Yeah, I'm John Bittner, 17700 Owensville Road. I would just like to thank you as County Commissioners and as the Drainage Board for the cooperation you gave us on the Barr Creek project which was funded out of our own funds. We had excellent cooperation from John Stoll, Soil Conservation, the County Garage and landowners in that area and especially on the Nisbet Road project. I heard some complaints here, I guess in the September 28th meeting, about how tough those agencies are to get along with. I didn't find that to be true. We had a four inch rain to test out the design and it worked, so thank you.

Commissioner Jerrel: Very good.

John Bittner: Just a footnote to what Dave Ellison said, I think his concern is the same one that Mr. Morley and I discussed after one of the meetings here is that whenever a development comes up in this impacted zone that the developer knows what is required, that it is not a moving target based on how hard we lobby the Board.

Commissioner Jerrel: Yeah.

John Bittner: And so that it is a protection for the citizens, you know, that we're satisfied and it is something that they can live with. I think that is all that Dave was asking for. One thing I want to ask you and I wonder if it wouldn't be a good idea, the Big Creek Watershed begins in Gibson County, flows in Vanderburgh County and then back out in Gibson County again and then in Posey County. I wonder if it wouldn't be well to contact those Drainage Boards or their Surveyor's Office and if they would have that same impacted zone right across the county line.

Commissioner Jerrel: Bill, do you know those Commissioners or their drainage people? If you don't we can get their names and get...we do interact with them, but I think that is a very good idea. We can't guarantee anything will happen, but we can do it.

John Bittner: Make them aware.

Commissioner Jerrel: Yes, and I think we should.

President Mourdock: And your other comment, John, about making sure that the developers or whatever know what is happening and that there isn't a lobbying effort made to otherwise go around those rules, that's the whole point of doing this as far as I am concerned. Just like the road plan that we did at Burkhardt and up north, the plans in place. You've got to play by the plan or else you're going to get a lot of resistance here. I can only tell you this one vote, and I'm not sure how long this vote will be in this chair, but as long as it is if it doesn't fit the plan it doesn't get the vote.

Commissioner Jerrel: It is easier for us to be consistent than it is to cave in to pressures. If we do a good plan in the first place it's easy from that point on.

President Mourdock: Right, as long as everyone knows what we're being consistent to and that's what the plan is.

Commissioner Jerrel: Right.

President Mourdock: Okay, on the other issue then, Bill, will you just send some correspondence or something to Gibson County regarding that--

Bill Jeffers: Yes, sir.

President Mourdock: --seeing if they would do that? Okay, any other comments from the audience?

Commissioner Jerrel: Motion to adjourn.

Commissioner Tuley: Second.

President Mourdock: So ordered.

The meeting was adjourned at 7:31 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
B.J. Farrell
Bill Jeffers
David Ellison
Jim Morley
Bob Woodward, Jr.
John Bittner
Others unidentified
Members of the media

**Vanderburgh County
Drainage Board**

—

Richard E. Mourdock, President

—

Bettye Lou Jerrel, Vice President

—

Patrick Tuley, Member

**Vanderburgh County
Drainage Board
November 23, 1998**

President Mourdock: Good evening. We'll call the November 23, 1998 meeting of the Vanderburgh County Drainage Board to order. There are, I believe...Bill Jeffers, are there agenda for the meeting over here on the far table?

Tony Greubel: There is.

President Mourdock: Okay, there is. If you want one that is where they are to be found.

Approval of minutes

President Mourdock: First item of business from our last meeting last month is to approve the minutes.

Commissioner Jerrel: I'd like to move approval of the October 26th Drainage Board minutes.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Update - Rasche petition

President Mourdock: The first item on our agenda this evening is some old business and we'll start with the Deputy Surveyor, Bill Jeffers.

Bill Jeffers: The first item is an update of the Rasche matter. There are representatives of both the petitioner and the respondent in the audience tonight. What I did was I went out and inspected yesterday the existing condition of the ditch behind Catherine Rasche's residence at, I believe it's 20 West Mill Road, or maybe it is 12. Anyhow, you know where it is at. I pulled a stake out of the ground that was on the top of the bank of the ditch that was worked on by Staub to show you what I was trying to describe verbally at our last meeting. This stake is a reference or used as a reference by the engineer who set it there to tell the machine operator how deep to dig the ditch. It's a cut stake. Up here is the cut line and it had said two foot six inches. That means you cut down from this point a distance of two feet six inches. This top of the cardboard representing the top of the ditch bank which I matched up with the dirt on the stake that I pulled out of the ground. You can see that the dirt line that's how far down in the top of the bank that the stake was driven, so we're going to measure down from the cut line two foot six inches and you can see that the ditch was dug originally 15 inches deep. That's the day I went out there and said, yeah, it looked pretty good, you know, because that just about, you know, it is near the entrance of this 15 inch pipe behind Mrs. Rasche house and the other ditch would pretty much match up with a 15 inch diameter pipe even though there wouldn't be much cover on top of it, it's not my concern. Then the next day they crossed that out because as you heard the reasons from the Rasches why they thought the ditch was too deep, they crossed that two foot six inches out and wrote 19 ½ inches so the operator then filled the ditch up from this 15 inch deep ditch, approximately, filled dirt back in until the cut was then 19 ½ inches rather than 30 inches and that at this particular point where this stake was pulled out of the ground the ditch is about four inches deep. So that is why I said I didn't think that the ditch would carry as much water as the pipe would because, obviously, you can't put a 15 inch pipe in a four inch ditch.

The bottom 20 percent of the pipe is carrying water and the rest of it is sitting up out of the ground. That's my explanation with a visual aid of what the situation is in the ditch and this stake was taken out of...behind Mr. Heerdink's house about 30 feet or so east of the pipe that the Rasches have behind their house. The ten inch pipe that I said obstructed and partially clogged the 15 inch pipe has been removed. They did a very nice job of that. They took the pipe out and disposed of it. They restored the ditch bank in an orderly fashion, put riprap at the end of the pipe.

President Mourdock: Is this since the last session?

Bill Jeffers: Yes, sir, it happened a couple weeks ago.

President Mourdock: Okay.

Bill Jeffers: A few weeks ago. Almost immediately after the meeting, your last meeting. Maybe within a week of the meeting they had taken that pipe out and they had cleaned the 15 inch pipe, so what you see here, this 15 inch diameter pipe, has been cleaned out from one end to the other. There is no blockage in the pipe. Both ends are clear and they did a nice job of restoring that pipe. However, the ditch along the back of Mr. Heerdink's property where it has been filled back in purportedly to make it easier to mow is in some places only four inches deep as shown by the cut stake. There are other cut stakes I left out there. All of them had been reduced from two and half feet of cut to somewhere in the neighborhood of 18 or 19 inches. I think that is about a ten inch difference. In other words, they filled in ten to eleven inches of dirt from what Tony Mueller had designated as the required cut to make the flow lines of the two pipes match as he said in his letter that is in the record of last month. At this time I would just like to point out that the only authorization I have as the representative of the Surveyor's Office and the representative of the Drainage Board to go onto the property, onto private property, to inspect this situation is a statutory ability to do so so long as the petition is still active. Once you act to terminate this matter and resolve this matter the Drainage Board and the County Surveyor no longer can enter onto private property to inspect the ditch. I want to point that out. I am not ready at this time to recommend that the ditch is adequate to carry water as it was before it was filled with dirt prior to all the hearings that you've had. The original ditch I don't think has been restored as it was prior to its original filling.

President Mourdock: Questions for--

Commissioner Jerrel: Have we had a rain since...?

Bill Jeffers: We've had some rains, but I don't think we've had any significant rainfall.

Commissioner Jerrel: To test...?

Bill Jeffers: To test the ditch.

Commissioner Jerrel: Is that what you would like to see?

Bill Jeffers: Uh, yes, ma'am. That and I don't want to go out there at this time of year and...well, I don't want the county to have to go out there at all. I don't think...you know, I think we understand that. I don't want our forces or our contractor to have to do it at all. However, if that comes to pass I don't want to do it at this time of year because I don't want to have the responsibility for erosion control over the winter during non

construction season. I can't get any grass to grow. I would be totally dependent upon erosion control mats and so forth and I don't want to be responsible for damage to other people's property that might result from a heavy rainstorm.

President Mourdock: But I think the basic question here, and correct me if I am wrong, and, Joe, especially correct me if I am wrong. From the legal point of view the Drainage Board took an action. The question at this point is did the acts that the Rasches undertook as a result of that action meet the requirements that they were given? Is the answer to that yes or no or we don't know? I hear Bill saying--

Joe Harrison, Jr.: Yeah, I think that's the issue is that the Gibson Circuit Court in its order affirmed the Drainage Board's decision of November or whatever of 1996 which essentially said the Rasches, Mrs. Rasche, was required to restore the ditch pursuant to your recommendations in that particular hearing. If that is not done then the next step would be to go back to court, inform the judge this has not been done. You would have to testify as to why you believe it's not done and certainly there would be minutes from this meeting and other meetings to go along with you, but this Board has already acted.

President Mourdock: Yeah, and is there any doubt at this point that what Mrs. Rasche has done met the order of that court? That's the question that I am trying to get answered.

Joe Harrison, Jr.: Again, Mr. Jeffers apparently, and I don't know exactly what you're saying, but I'm hearing that you're saying well, some work was done, but you can't say whether the work has been done completely as per the previous order of this Board and I don't know if you're saying further work may need to be done or not, but I get the impression that you're not satisfied with what has been done, so it will be up to this Board to give Mr. Jeffers further direction whether it be stop at this point and say let's go to court or the second option would be, well, wait for a rain and have him come back and report to us. I think those are probably the two options.

Bill Jeffers: If I hadn't made it clear I will say that there is a portion of the ditch along the back line of Mr. Heerdink's property at least 50 to 60 feet of which is too shallow or too shallow to handle the type of storm that the ditch would of handled before it was built. It's not as deep as it was in the pictures I've seen prior to the initial filling August 5, 1996, so it has not been restored to its original condition or a condition equal to its original condition in my opinion.

Commissioner Jerrel: I'm reading from the minutes of October 26th, the recommendation from the attorney was:

"That Mr. Jeffers at some point go back out on the property and see if the order of this Board has been complied with and if the order of this Board has still not been complied with that at this Board's direction we could go to the Gibson Circuit Court and seek to find Mrs. Rasche in contempt of the Board's order and the court's order, more importantly, because that would be the order that has not been complied with."

Has the order been complied with?

Bill Jeffers: Not in my opinion.

Commissioner Jerrel: So we have two choices. We can go back to the Gibson Circuit

Court or we can give you a time to see what occurs with the rain. Even that won't change anything.

Bill Jeffers: It may. Forces of nature, the settlement, because they just pushed the dirt back in the ditch. Just natural subsidence and compaction of that dirt may cause the ditch to become deeper and erosive forces may cause the ditch to become deeper, but my concern is not to anything right now due to the kind of weather we are most likely to have over the winter. It might cause more of a mess than it would be worth.

Commissioner Jerrel: Okay, so is a motion in order to delay final acceptance of this project? I'm asking the attorney? Your recommendation is--

Joe Harrison, Jr.: I don't think we're ever going to accept the project. I think what we're doing is if we don't believe--

Commissioner Jerrel: That it meets the order?

Joe Harrison, Jr.: Yes.

Commissioner Jerrel: Okay, but we have a choice of either continuing this until Mr. Jeffers has had this opportunity to see how the compliance with the Gibson Circuit Court order is.

Joe Harrison, Jr.: Right.

Commissioner Jerrel: Or we can go directly for a contempt of court recommendation, go to the court and seek that.

Joe Harrison, Jr.: That's correct.

Commissioner Jerrel: Okay, so I'm going to make a motion that we defer this until you have had an opportunity to observe the corrections for the next two months...or three. Is there an appropriate time?

Joe Harrison, Jr.: It's up to you. There are some people here that may want to speak on the issue.

Commissioner Jerrel: Right, well that is to get it on the table.

President Mourdock: Okay, anyone wishing to speak to this issue? There is a motion, is there a...Mike?

Mike Rasche: Mike Rasche, 6800 Old State Road. When we were here at the last meeting Mr. Jeffers was asked by some member of the Board, I think it was Mr. Harrison, if he thought the ditch was adequate to contain the water...the amount of water as it did before it was filled. He said he thought it would. Check the record or the minutes, whatever you want to do. Now he is coming up with an engineering project that we have to make it so deep and it has to be so wide. What we were required to do by the court order was to put it back into similar...the same condition it was before it was ordered filled. Now it is actually wider than it was. He says it's four inches deep on the back of Heerdink's property, that's correct, but it is five feet wide. I think this ditch will hold more water. Now one thing we don't have is photographs showing this ditch before it was filled compared to photographs of the ditch now. I think if you'll compare these,

if we can find some, you'll see this ditch will hold more water than it ever had. I cleared that ditch in 1970 when my mother bought this property. It is bigger than it was then. It will hold more water now than it ever would. We don't have to make some sort of grand engineering design. We have to put it back to the condition that it would hold water equal to, not necessarily better than before it was filled and I think we've done that. Now I do agree with Mr. Jeffers that somebody needs to come out and look at this thing. You guys are getting verbal explanations and you're looking a diagrams, and occasionally photographs. You may want to come out and stand on it. I would like to see some photographs of this ditch prior to it being filled so we can compare it to the way it is now. Now, the last meeting the points of contention were the 15 inch tile was half full of silt. That has been cleaned. The ten inch tile was an obstruction. That's gone. Mr. Jeffers was asked if the ditch was adequate and he said it was. Somewhere he has changed his mind. The ditch was filled in from the original configuration. When Staub dug it there was a ten...eight to ten inch ridge of dirt on Heerdink's side of the ditch. There would be no way to keep the weeds off of that unless you took a weedeater...you can't mow it with a lawnmower because it is about a foot wide and eight inches high, maybe even narrower. Most the depth of the ditch came from the height of that berm which was on mom's property, she would be required to keep it mowed. So that dirt was raked back into the ditch. It's not as deep as it was when Staub was done. Staub dug it about a foot deeper than it had ever been. That dirt was put back in the bottom, the erosion mat was put back on top of it and we have had one good rain since that work was done. The mat hasn't moved. It's not going to move now because there is dirt and there is grass growing through it. There is dirt under it. It's going to stay like it is. It is my contention that ditch is as good or better than before it was filled in by Staub the first time.

President Mourdock: Okay, let me build on what I see is some common ground right now which is Bettye Lou suggested that we give this 60 days, I think you said two months. I hear Mr. Jeffers saying that he wants to see if it is going to work and I heard you say that it is working and you want some of us to come out and take--

Mike Rasche: Come out and take a look at it.

President Mourdock: --a look at it, so that seems to be the common theme so if I may, we have a motion that basically said to defer this for 60 days to see if the system works.

Commissioner Tuley: I'll second the motion. I'm sorry, more comments?

Jan Bolinger: I'm Jan Bolinger. I'm at 4319 Kratzville Road and I see some common ground also with getting this as we said from the first time that we were here we want something that works. Mike had referred to the last meeting. I believe he means the last one that we were in attendance at.

President Mourdock: Right, that was actually two meetings ago.

Jan Bolinger: Okay, so we didn't have notice of the meeting or we would have been here. There were a couple of things mentioned that I don't know if it is important or not, but we were never told that when the work was in progress that at any point it was acceptable. No one was ever notified of that and the last meeting you were at you had a question about that. No one of the Rasche family was told at this point it is fine because the work was in progress for two or three days. Also as we talk about these flow measurements, there were never any measurements before as to how much cubic feet of flow permitted that it would hold, so I think to an extent we're trying to be real

scientific about an unscientific area and, again, we would like to see this thing resolved to everyone's satisfaction.

President Mourdock: Yeah, and, again, there is some common ground there because I know you have been down here for a number of meetings. Mr. Heerdink has been here, Bill has worked on this. We've heard of this whole situation and we too want to get it resolved, so there was a motion and a second that this be deferred for 60 days, so I will say so ordered to that. We'll, I'm sure, get some precipitation during the next 60 days and as you said, Mike, it will work and everything will be confirmed.

Update - Koch petition

President Mourdock: Okay, the next item of old business is the Koch petition.

Bill Jeffers: In the matter of the Koch petition it has been 60 days since the order of the Board was rendered. You gave Mr. Hawa 45 days to seek legal counsel. I have not heard anything back from Mr. Hawa with regard to anything, whether he has found legal counsel or from his legal counsel. I went out last week with Ray's Tree Service and asked them for a price on two willow trees, one on each corner of Mr. Hawa's property that are located in the flow line of the ditch. For a total removal of the tree and grinding of the stump six inches below ground level and the price for that work is \$725 according to Ray's Tree Service estimate. Whether we use Ray's Tree Service or whether we seek other bids would be at your pleasure. I just wanted you to have an idea of how much money to go to the County Council and ask to be transferred. We recommend that it be transferred from Eagle Slough account into the General Ditch account.

President Mourdock: Okay, we've got...let me do this in a couple of steps here for purpose of motions. First of all, is there a motion that we solicit bids for this work?

Commissioner Jerrel: I would like to move that you get two other bids or quotes. They're quotations, they're not bids, but I wish you would. You can call a couple of places.

Bill Jeffers: Sure.

Commissioner Jerrel: I would like to make that in the form of a motion.

Commissioner Tuley: I'll second that motion.

President Mourdock: So ordered. Second also would there be approval for a Council Call for transfer from...I'm sorry, where did you say?

Bill Jeffers: Eagle Slough has the greatest amount of unneeded funds at this time.

Commissioner Jerrel: Okay, I would like to move approval that you go on Council Call for the purpose of paying for this by transferring from Eagle Slough to this account that you're going to establish.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Bill Jeffers: The last thing that I have to say about that matter is that Mr. Koch expressed that he was willing to pay for the one tree and he reiterated that the day I was out there.

I believe it was Wednesday of last week. At some point in time you're going to have to resolve how you're going to pay for the other tree. I don't want to move that dirt out of the ditch until next spring when we can get some grass to grow on it, so I'll be coming back next spring for the removal of the small quantity of dirt.

Commissioner Tuley: That's for one tree?

Bill Jeffers: That's for two trees.

President Mourdock: But there was another tree--

Bill Jeffers: They're equal sized.

Commissioner Tuley: Okay.

Commissioner Tuley: I guess my memory is--

Joe Harrison, Jr.: I believe he was required to pay for the whole job, whatever the job entailed.

Bill Jeffers: He may have been. He'll probably contest that. He'll say that the dirt was applied in the ditch after the statute took effect, so therefore it was intentional, but the trees were planted in 1992 so he concedes that was unintentional.

Joe Harrison, Jr.: But that is something we can deal with down the road.

Bill Jeffers: I mean, that's a later matter. Like I was saying, I'm going to come back in the spring for the removal of the dirt because I don't want to do it--

Commissioner Tuley: Okay, that's where I was confused. I thought he was arguing about paying for the removal of one of the trees, he is talking about the dirt?

Bill Jeffers: He doesn't want to pay for the removal of the dirt and he is only willing to freely pay for the removal of one tree, the one right behind his house. The other one is on down the way behind his neighbor's house. He doesn't think he should have to pay for that.

Commissioner Tuley: Okay. We'll cross that bridge later.

Bill Jeffers: Right. I mean, you know, I don't know that we'll go to court for \$375.

<p style="text-align: center;">Final reading Amendment to County Storm Water Drainage Ordinance</p>

President Mourdock: Okay, next item on our agenda is the official reading of the North 41 corridor impacted drainage amendment. This is the final reading for that area out on US 41 that we want to designate an impacted drainage area, so that draft of the final ordinance...or for the final reading is in your packets. Is there a motion for approval?

Commissioner Jerrel: I'd like to move approval of the amendment to the County Storm Water Drainage Control Ordinance for the North US 41 industrial corridor, final reading.

Commissioner Tuley: Second.

President Mourdock: Okay, and is there anyone to speak to this issue? Yes, Dave Ellison.

David Ellison: Just real quickly. David Ellison, 2040 West Baseline Road. For the people that are here that has not attended any of the readings could you explain to them what an impacted drainage area is and what this is going to do versus what we had prior?

President Mourdock: Sure I'll...Bill, do you want to do that or I can do it quickly?

Bill Jeffers: I don't have the ordinance in front of me, but in the original drainage ordinance we anticipated that there would be areas of the county that had drainage facilities only large enough to handle the water that is going through them today and that we even specified North 41 corridor as one of those potential impacted drainage areas. Impacted means that there is conditions within that area that would prohibit...there are conditions within that area that exist that additional runoff in gallons per minute could do serious damage to facilities that we've improved as much as we can possibly improve. Now the folks that are here in the audience today...tonight know that the Big Creek Drainage ditches as a whole have been improved about as much as they can possibly have been improved and from now on we're just going to keep them dressed up. We've got them as wide as we can possibly get them. We've got the levees and the spoil built up to an elevation as high as we can possibly get by with. The waterway openings, some of the bridges may be widened or improved to some extent, but generally the ditches are as good as they're going to get. So what we have done is all further...in this amendment to the ordinance all further development within the area between Inglefield Road and the north county line and between Princeton Road and Old State Road is going to be declared an impacted drainage area and all new development, whether commercial, residential or industrial within that area will have to reduce it's discharge in gallons per minute from new development to the rate equal to what comes off those agricultural acres during a ten year storm. So from now on they will be calculating a ten year storm off agricultural land and then the new development after the streets, rooftops, so forth, other hard surfaces are applied will be no greater than the discharge in gallons per minute from that ten year storm all the way up to a 100 year storm. The design storm will be a 100 year storm. Anything over that is pretty much impossible to control. You'll see one come before you tonight, a subdivision that is going to create a series of lakes in a golf course that is going to detain greater than the required amount under this new ordinance.

President Mourdock: Okay.

Bill Jeffers: So if they would like to hang around and see how the engineer proposes to do that, that will be basically the affect of this amendment to force all developers to contain a 100 year storm after the development is completed and discharge it at a rate equal to a ten year storm.

President Mourdock: Okay, saying all that slightly differently for those who may still be interested, what the impacted drainage area does by designating it that, we know there will be new development in that area. With the hard surfaces Bill was talking about and we want to make sure that as that development occurs that we have drainage standards calling for detention and retention adequate to the task so that people downstream don't get flooded out. It's a little different than we have done it before, but hopefully it will give

us better property protection. Okay, we have a motion and a second and since this is an ordinance we need to do this by roll call vote, so Commissioner Tuley?

Commissioner Tuley: Yes.

President Mourdock: Commissioner Jerrel?

Commissioner Jerrel: Yes.

President Mourdock: And I will vote yes. That will then proceed to the Vanderburgh County Commission as a whole for the reading also.

Commissioner Jerrel: I would like to say at this time that I appreciate Commissioner Tuley suggesting this because it just fits into what we're doing anyway, so we appreciate keeping us within our planning process.

President Mourdock: Very good comment. That's certainly appropriate.

Commissioner Tuley: Thanks.

Hucks Convenience Store, Green River Road - Final drainage plan

President Mourdock: Okay, new business to come before the Board. The first one we have this evening is for final drainage, the Hucks Store, Green River Road at Lynch.

Bill Jeffers: I have loaned out the drawing of this, but it's just a convenience store located at the northeast corner of Lynch and Green River Road. It was prepared for Martin & Bayley, Incorporated of Carmi, Illinois and I have given your Recording Secretary a letter from Les Shively asking that it be put on your agenda. It's a simple convenience store plan. It's currently under Site Review with regard to traffic, entrances and all the other things, green space, but what the...the reason it is coming before you is because the developer is asking that the detention requirements for this property be waived due to its close proximity to Pigeon Creek. It has to go through one 48 inch concrete pipe that your Commissioners' Board had constructed just north of the intersection of Lynch Road with Green River Road.

President Mourdock: Which side of Green River is this on?

Bill Jeffers: It's on the east side of Green River, so it will discharge immediately into the 48 inch pipe. I asked them to go to United Consulting Engineers and prove that the additional flow from their development would not exceed the capacity of that pipe during a 25 year storm and they show the calculations both from Tony Jones of United Consulting Engineers and Architects as well as from Landmark Survey and Incorporated of Washington, Indiana. I jacked up the runoff numbers to a 100 year storm and it shows that pipe will still handle the additional runoff from the Hucks Store which only covers a couple of acres. The pipe still has approximately 15 cubic feet of head or air space to be filled up during a 100 year storm because the time of concentration on this parcel is less than 15 minutes and the time of concentration on the other 62 acres that comes through the pipe is much greater. The water from this small parking lot will be out into Pigeon Creek long before the rest of the water from even a 100 year storm would arrive at the pipe and the Surveyor's recommendation is to allow them to go forward without a detention basin and discharge their water directly into the 48 inch pipe at the northeast corner of the intersection of Lynch and Green River Road.

President Mourdock: Okay, occasionally, Bill, we do both preliminary and final at the same time. Is this one of those times?

Bill Jeffers: This is a final because it is going to go straight to Site Review next Monday.

President Mourdock: Okay. Anyone here wishing to address this particular request? Motion from the Board?

Commissioner Jerrel: I'd like to move approval of the final drainage plan for the Hucks Store at Green River and Lynch Road.

Commissioner Tuley: Second.

President Mourdock: So ordered. Our next issue--

Commissioner Jerrel: Do we have to...we don't have to do a roll call?

President Mourdock: No, we don't. On my draft, Bill, I show an Item 2 and 3 that are blank. Were there some last minute entries there?

Bill Jeffers: That was just in case someone came in after Friday noon with a final drainage plan and no one has.

President Mourdock: Okay.

Bill Jeffers: I was looking for a couple of subdivisions to come back and they didn't.

Stonecrest Subdivision - Preliminary drainage plans

President Mourdock: Okay, for preliminary drainage plan approval then we've got the Stonecrest as the first one.

Bill Jeffers: Okay, there may be people here in the audience that have an interest in the Stonecrest Subdivision which is located on Petersburg Road north of Boonville-New Harmony, north of the Hornet's Nest about a half mile or so. Someone called our office today and asked for a copy of the report. Is that person in the audience? You want to look at that while we're discussing it? That's the engineer's report showing his calculations on the storm water runoff.

President Mourdock: Even before we get started with this let me point out that this is a preliminary plan approval so that just as the one you heard a moment ago has to come back as a final so will this one. Just the fact that you've been handed that don't think that you won't get further time to review it.

Bill Jeffers: This is a preliminary plan which reflects the engineer, Daryl Helfert from Morley and Associates, calculations of what he anticipates the additional storm water runoff will be once this parcel of ground is divided up into, oh I think it is 265 or 267 lots, I believe. They are small lots. There is a lot of street surface in there. There will be a huge amount of additional storm water generated from the rooftops and the street surfaces. Because it is a preliminary drainage study Mr. Helfert has not gone in and finalized all the details of every minute aspect of the drainage facilities and what I have done is gone around basically the perimeter of this entire project and noted areas of concern that I would have with regard to the bordering properties because of the design that Mr. Helfert has chosen generate some concerns for some areas along the boundary

here. That mainly has to do with are the existing natural channels sufficient to carry the flow? If not, if he can't prove that they are, his final plan must come back and show improved channels that may require a lot of removal of trees particularly along the north line. There are some areas behind the dam. There is going to be a large lake down here and there are some areas behind the dam where he is showing a discharge into Schlensker Creek and I am concerned about property on the other side of the creek when that discharge comes out and I am asking for certain erosion control designs to be implemented there. This is typical of our review of a preliminary plan, that I am supposed to be troubleshooting and looking for areas double-checking the design engineer's ideas. I would like to say to the developer who is here in the audience tonight that it's none of my business what his financial plan is with regard to breaking this up into such small lots. I mean, I don't do this for a living and I don't know what it takes to break even on a land deal, okay, but these are relatively small lots and it has been my experience both with this particular developer's projects in the past as well as other developers who do similar projects with small lots is that sometimes the developer and subsequently his buyers, homeowners, are somewhat chagrined at the amount of easement width that is required to get ditches in between houses or along the back line of houses that it eats up the usable backyard and that is just a fact of life. If you're going to have open ditches they have to be a certain depth with a 3:1 side slope. If it is four feet deep you automatically are going to have, you know, a 15 foot wide ditch. That's just the way it is going to be. A 15 foot wide ditch is going to need a 16 to 25 foot wide easement depending on how it is configured. So I just want to caution the developer that there may be places in this plan where ditch widths will eat up a side yard or a backyard to the point that lots might have to be reconfigured because, obviously, we're going to have...these are designed for a 25 year storm, but obviously during a 100 year storm the water has to get between the houses or along the back lot line, so having said that and having said that the plan is preliminary and will come under intense scrutiny over the next month I have written on your copy the adjacent landowners' names as were found on the plat so as people come up to speak you'll know the approximate location of their property. I did check the calculations submitted by Mr. Helfert, they are correct. I have spoken with him pretty much in the same manner I've spoken with you just now. He does realize that there may be problem areas that we'll have to address that would require additional easement widths or additional drainage facilities. This is the plan that is being presented to you tonight and it is the plan that is going forward to the Area Plan Commission if you pass the preliminary plan for Stonecrest Subdivision.

President Mourdock: Okay, is there anyone in the audience who wishes to address the Board regarding this preliminary plan? If so, please come to the microphone, state your name and address for the record.

Ray Rexing: Ray Rexing, 3 West Stacer Road, Haubstadt, Indiana. I am an adjacent landowner to this project. I guess my main concern is that we have a problem, an existing problem, with Schlensker Ditch which is where this water will discharge into. Schlensker Ditch is a private ditch, it is not a legal drain. I think...my feelings on it are if we're going to discharge this much water from this many dwellings, then I think the adjacent landowners who maintain this ditch needs some help in maintaining that ditch to keep it so the water...it will continue to handle the amount of water that it has in the past.

President Mourdock: Are you suggesting with that, Mr. Rexing, that you think Schlensker should again become a legal drain...or not again, but become a legal drain?

Ray Rexing: Schlensker Ditch further east is a legal drain. I think it should be declared

a legal drain up to Old State Road. That seems to be the saddle of the watershed. Am I not right, Bill, on that?

Bill Jeffers: That's correct. Up near Peck Road.

President Mourdock: You said, Mr. Rexing, you think it should be a legal drain up to Browning Road?

Ray Rexing: I think it should. We have a lot of trouble with trees, as Bill stated. There are some tree lines along the north side of this proposed project and as the ditches get deeper the trees fall in and up to this point, you know, it's the adjacent landowner who has to get the tree out or else you're blocking the water and then it discharges out into our property.

President Mourdock: Okay, let me chase that for just a second with our County Attorney. We've had the question come up every now and then on different projects about taking a ditch and, again, or for the first time establishing it as a legal drain. It's always a very complex question because you have to get a petition approved by a certain percentage and I think it is 75 percent of the people in the legal drain.

Commissioner Tuley: Fifty-one.

President Mourdock: Is it just 51, the majority?

Commissioner Tuley: I'm looking at Bill.

Joe Harrison, Jr.: Yeah, I think it is 51. I think it's just a majority of those that would be affected.

President Mourdock: Okay, when we've always spoken of that I have always thought of a subject ditch being from wherever it is identifiable as a ditch to the point that it ends and you can obviously define the watershed. If you were just adding a length of ditch how do you define that watershed?

Joe Harrison, Jr.: It's a legal ditch right now from where to where, Bill?

Bill Jeffers: Approximately from Bluegrass Creek to 57. Somewhere in the neighborhood of 57.

President Mourdock: So it drains into Bluegrass?

Bill Jeffers: Yes, sir.

President Mourdock: And goes up to 57.

Bill Jeffers: It goes under 57 in Daylight near where the new shopping center is going to be.

President Mourdock: Well, is that being assessed to people clear in at the headwater?

Bill Jeffers: Currently the property owners petitioned us to abandon it or to cease maintenance because they would take care of it themselves because Quentin Stahl does most of the...he owns most of the ground there and he does his own work.

President Mourdock: So even though it's still a legal drain--

Bill Jeffers: We don't collect assessments and the--

Joe Harrison, Jr.: But it's still a legal drain.

Bill Jeffers: It's still a legal drain and the account is just stagnant, nothing going in or out of the account.

Joe Harrison, Jr.: Schlensker Ditch, are that you're talking about from 57 up to Browning Road?

Bill Jeffers: Browning Road and Old State is not a legal drain.

Joe Harrison, Jr.: That's the area...well, maybe only to Browning Road, that you're speaking of this evening. It may be that...I think it would be just that portion if it is not going to go beyond Browning Road.

Bill Jeffers: That's the head of it.

Ray Rexing: Right, that is where the issue is.

President Mourdock: At Browning Road is where it initiates?

Ray Rexing: Yes.

President Mourdock: Okay, so you're saying take it from where it is presently a legal drain now all the way up to Browning Road where it initiates?

Ray Rexing: And I don't know where it is a legal drain now for sure.

President Mourdock: Well, I heard Bill say--

Ray Rexing: How far.

President Mourdock: --it is, but there is no assessments.

Ray Rexing: You think it is to 57?

Bill Jeffers: Somewhere between Boonville-New Harmony and 57. It's so many thousand feet. I have never mapped it out because we don't take care of it.

President Mourdock: Right, okay. Obviously, there is a lot to that process and I just wanted to clarify.

Ray Rexing: I guess I would like for that to be a contingency upon approval of the drainage plan that the developer...or that it be implemented at least to Petersburg Road.

Joe Harrison, Jr.: The only thing about that is it would take all those to be affected by it to petition.

Ray Rexing: You would have to carry a petition?

President Mourdock: Uh-huh.

Joe Harrison, Jr.: Yeah, and what we're saying is, I believe...I don't have the statute in front of me, but I think it is over half have to be in favor of the petition and then, obviously, they would be assessed down the road. The procedure takes at least 60 days or so to finalize because there would be a hearing on it, the petition would have to be filed. Bill has gone through it. I'm sorry, I don't have the statute in front of me, but I think the procedure takes 60 to 90 days. I don't see how it could be conditional upon anything because your fellow homeowners out in that area would have to go along with it and they may not want to go along with it. They may not want to be assessed.

Ray Rexing: It could be a contingency of the approval of the drainage plans, couldn't it?

President Mourdock: No, it couldn't because basically then you're making the approval of this plan contingent upon people far beyond this Board, just all the individual property owners who own acreage up and down along even above this property are then put in a position of either approving or disapproving this. So, no, it can't be a condition.

Ray Rexing: Thank you.

Commissioner Jerrel: I do think--

President Mourdock: That was a very good question.

Commissioner Jerrel: I do think it is worth, and I don't want to put any more work on Mr. Jeffers, but I think if you would just take a look at the legal drain even though you haven't drawn it out, but you've got an idea that it runs up to 57, you have an idea of where it is. Then we could look at the area that you're describing and identify the properties that would be affected and I think your idea is worthwhile. We can't attach it to this, but I think it is something that we need to...and I'll even make that in the form of a motion that we do evaluate and continue looking at how to make the rest of Schlensker Ditch appropriately accepted as a legal drain.

Joe Harrison, Jr.: Based upon the evidence and petition and final--

Commissioner Jerrel: Well, I meant--

President Mourdock: You're not suggesting we do it?

Commissioner Jerrel: No, I'm suggesting that we gather--

President Mourdock: You're just saying that we need to--

Commissioner Tuley: Explore it.

Commissioner Jerrel: --this information to support that effort. I would like for Mr. Jeffers to at least identify it for us.

Bill Jeffers: Sure and I'll provide, along with the maps that would be required to show you the watershed area and the route of the ditch itself, I'll provide a copy of the statute that tells how the residents go about hiring an attorney and drawing up a petition and bringing it to you with 51 percent of the folks in agreement and that type of thing.

President Mourdock: It's actually on the acreage, isn't it? Fifty-one percent of the acreage represented by the landowners.

Bill Jeffers: Fifty-one percent of the landowners, I believe.

President Mourdock: So regardless of the size of the tract it's just landowners?

Bill Jeffers: I believe that is the way it is.

Commissioner Tuley: We have a motion on the floor, I'll second it.

President Mourdock: Okay, and I will say so ordered to that. Okay, anyone else wishing to speaking to this? Yes, ma'am.

Carolyn Eissler: Hi, I'm Carolyn Eissler and I live on this side here. I really was not aware of this until Friday. I was wondering if you have any idea what you're going to do with that ditch right there. That is where those small lots are there. Do you have...that runs right through my property.

Commissioner Jerrel: Have you seen this?

Carolyn Eissler: Well, I saw the one that they sent me and I blew it up. This is what they sent us all. Get out of here, you know.

Commissioner Jerrel: Yeah, you want to put that up there at...so they can look at it.

Carolyn Eissler: My question is will that ditch be addressed for water drainage with all the neighbors?

Bill Jeffers: Right, because right now the design engineer has designated this area as undetained water being passed through.

Carolyn Eissler: Well this ends up in Schlensker Ditch, too.

Bill Jeffers: Right, it goes this way.

Carolyn Eissler: I can tell you right now when it rains, and it has rained very hard, I can stand out on my patio and I can hear rain coming off of that farm ground over there and it sounds like a freight train going underneath that bridge.

Bill Jeffers: What I've shown here is that, you know, there is a tree line along here--

Carolyn Eissler: Right.

Bill Jeffers: --and I'm saying show the sufficiency of this channel's capacity, show erosion control against incoming erosion velocities.

Carolyn Eissler: There is a lot of erosion problems there.

Bill Jeffers: And then down here where it gets outside the property show some design for this ditch, so yes it would be addressed in the final drainage plan whether or not this ditch is sufficient presently and if not what they are going to do to make it sufficient.

Carolyn Eissler: Well, I never saw it run full, don't misunderstand that, but they did put a new culvert in there several years ago and they had to come and make it bigger because all of this water comes off this area.

Bill Jeffers: Right.

Carolyn Eissler: I said when it comes down off that hill and when that water drains off of this, that's farm ground out there--

Bill Jeffers: We're going to ask them show its efficiency after all these new houses are built not just as it is today.

Carolyn Eissler: Well, I realize that, but it won't do any good...it's not going to work there if they put all that other in there and I wondered if you were going to address this. (Inaudible.)

Bill Jeffers: Yes, ma'am, with this ditch as well as any other ditch along the boundaries of theirs and other people's property, but definitely along yours.

Carolyn Eissler: This is the one I am concerned about. I mean, I don't mean to be hard hearted because I know everybody has got some--

Bill Jeffers: No, they know it, too, because they are showing a 30 foot drainage easement. They already know there is going to be a big ditch there.

Carolyn Eissler: There is already a ditch (inaudible) cleaning it out will be the trick.

President Mourdock: Ms. Eissler, just for the record would you state your address, too, please.

Carolyn Eissler: It's 13031 Old Petersburg Road.

President Mourdock: Okay, thank you. Anyone else wishing to speak to this preliminary plan? Yes, sir, in the back.

Warren Deutsch: My name is Warren Deutsch at 12505 Old Petersburg Road. My drainage runs before this subdivision and I am concerned about the water backing up on my property. I already have a lake that the neighbors built above me that drains onto my property. I have two ditches that run from the east and one that runs from the south. The one from the south runs way up past Boonville-New Harmony Road and there are times when we have real heavy rains that I have to drive through water to get through my driveway, so I am concerned about the take-off, with all these houses and everything, if that is going to be sufficient to keep it from backing up onto my property.

Commissioner Jerrel: Bill, this is up at this part is where his is located.

Bill Jeffers: I think the grades away from his property are steep enough that I don't think you have any concern about that water backing up. However, that will be addressed in the final review as well.

Warren Deutsch: Is there going to be some kind of a...well, there is a big ditch back there already that runs along--

Bill Jeffers: I have a question mark there because it does show a big ditch behind your house and I don't see any provisions for picking up the water from that ditch and collecting it into their proposed ditch yet, so, yes, I am asking for that.

Commissioner Jerrel: Is this the lake?

Warren Deutsch: Yes.

Bill Jeffers: See those squiggly red lines I've got there? That shows there is a pretty good sized ravine coming down.

Warren Deutsch: This spillway runs right onto my property.

President Mourdock: Are those two foot contours?

Warren Deutsch: I have ditch that goes through here.

Commissioner Jerrel: These are the lines that he--

Bill Jeffers: Two and a half foot.

Warren Deutsch: And then the other one comes down through this way and runs along the property. There is a big ditch right here where all three of these intersect and then it goes back that way.

President Mourdock: From where the red...excuse me, from where the red line starts that Bill is showing there to where his question mark is you've got about 15 feet of drop right there.

Bill Jeffers: Right, they're going to have to have a larger ditch than what they are showing. I think they know that and I think the final plan will have to address picking up your water that's running down your ravine into what they propose. They're showing a 42 inch pipe under the road, so they know there is a considerable amount of water coming down from you.

President Mourdock: Is all of that currently agricultural ground where this subdivision will be located?

Bill Jeffers: Yes, it's all zoned...it's all Ag.

President Mourdock: Just I may get in trouble for saying this, but I cannot think of an exception to this in the four years I've been on this Board every time one of these subdivisions have located there one of the issues is always that because it is residential with streets and pavement that the water comes off of there faster than it did beforehand, so if your situation occurred where it was backing water up that would be the one exception to that rule, so I don't know that you'll have that problem.

Bill Jeffers: If they didn't put in sufficiently sized pipes it could back water up onto his property, but I doubt all the way back up to your lake.

President Mourdock: Right.

Bill Jeffers: You know, maybe the first couple hundred of feet.

Warren Deutsch: Well, that lake is not really mine, it's the neighbors. His spillway goes onto my property.

President Mourdock: Okay, thank you.

Warren Deutsch: Thank you.

President Mourdock: Anyone else wishing to address the Board on this particular issue? Jim.

Jim Morley: Just briefly I would like to assure the neighbors on the concept of the plan.

President Mourdock: For the record--

Jim Morley: My name is Jim Morley with Morley and Associates. The concept of the plan is to accept the water as he pointed out from his side and to essentially segregate the water from off-site and construct ditches and convey that water through so that water goes right on to Schlensker Ditch as it does now, to segregate it from the ponded water where all of the lots within the subdivision will go to. All of the lots within the subdivision will be captured internally and go to storage basins and discharge at a ten year storm. There are off-site waters, some of which flow across this project, and it is these ditches that Bill was talking about around the edges that in some places will require easements which we figure will be nearly 30 feet wide and what we'll do when we present the final drainage plan as we get into his area we will show the cubic feet per second of water coming from his land and the lake beyond it and we'll show the width of our ditch to take that and show the depth of that and the slope of that ditch on out and around and into Schlensker. That is our method. What is off-site upstream of this goes into ditches and moves around our capture facilities so that his drainage is not in any danger of being, because we have capture facilities, of backing up onto his property. His will be smoothly taken and channeled right on around, so we'll provide all those capabilities. Of course, as far as Mr. Rexing is concerned on the legal drain issue, you know, we have many areas where I think perhaps we ought to give...I wish the law was a little bit easier to implement and bring other people in. I'm sure that, you know, very often it is the people right along the ditch who have got the burden of the maintenance of the ditch and I'm not sure the new law has made it a whole lot easier for people. If you create a legal drain you capture more money from people who are upstream, but still drain down to that same ditch and it becomes a better way to spread the load that Mr. Rexing is talking about. The difficult thing it is the difficulty of implementing a legal drain. None of us can really do anything about it. We've got a certain set of guidelines and if we move forward we can make it happen.

President Mourdock: Okay, thank you. Anyone else? Last chance. Okay, we have a motion...no, we don't have.

President Mourdock: For the purpose of moving this as a preliminary approval, I'll move approval of the preliminary plan.

Commissioner Tuley: Second.

President Mourdock: I will say so ordered. Just for the purpose of scheduling, Bill, do you expect final plan would come back next month?

Bill Jeffers: I expect it will be...oh, that's December.

Jim Morley: It won't be that fast.

Bill Jeffers: I'm hoping we won't have meeting December 28th?

Commissioner Jerrel: Is that a request?

Bill Jeffers: A suggestion.

President Mourdock: I'd have to think about that one.

Bill Jeffers: I would say January probably.

President Mourdock: For those in attendance with interest in this one another notice will be going out prior to the final hearing.

Bill Jeffers: We don't send notices out for Drainage Board hearings, but they're always held on the fourth Monday of each month unless the fourth Monday is a holiday and then they're held the day after on Tuesday, but anyone in the audience may call the Vanderburgh County Surveyor's Office and find out when it will be heard next.

President Mourdock: And most likely, I hear Jim Morley saying it will probably be in January.

Jim Morley: It will be at least January...yeah, probably be in January. But if anybody that is here wants to make sure they have an opportunity to see the final drainage plan they can either contact Bill or myself and we'll be sure to get them copies and review anything that they would like.

Commissioner Jerrel: Okay, you want to give them your phone number?

Bill Jeffers: Okay, and then Mr. Morley usually turns his plans into me about mid month and that is when I would know whether it would be at the end of the month, so let's say by the 15th give me a call and I'll let you know whether it is going to be on the fourth Monday.

<p>Cambridge Subdivision and Golf Course - Preliminary drainage plan</p>

President Mourdock: Okay, the next item on our agenda then is Cambridge Subdivision and Golf Course at Volkman and Old State Road.

Bill Jeffers: If anybody wants to look at the calculations I have a phone book full of them here. Basically I have done the same thing on this preliminary plan as I did on the one we just looked at and that is marked out the areas of concern with some notes and then put down the adjacent landowners' names approximately on the land that they own. I think I see a couple of names here that also own land adjacent to the last one, the Riggs and the Rexings.

Commissioner Jerrel: Yeah.

Bill Jeffers: Anyway, this is a large mixed development that will include a golf course, residential single family lots and I've heard it will also contain condominiums, club

houses, etc. What you're looking at is the residential subdivision layout with the golf course...large area of golf course passing through it. The plan is to create...oh, this is in the impacted drainage area that will be declared next month or finalized, so they are going with the 10/100 design. It's at the corner of Volkman Road and Old State Road. They're creating several large lakes that have excess storage capacity. They're reducing the...the calculations show they are reducing the outflow from these lakes to a velocity and volume...or to a volume far less than the required detention volume and basically the only concerns I have is the velocity at which the water will leave the primary spillway pipes out of these lakes because all the adjacent property onto which the lakes discharge is agricultural property most of which have large grassy waterways running through the fields and the discharge pipes are like big 42 inch pipes and it's going to require a rumble strip area of riprap to reduce the velocity and spread the water back out to a big broad grassy waterway on the adjacent properties, so that is what the notes are referring to there. I'm sure there are some adjacent landowners...I've reviewed the calculations from Bernardin Lochmueller & Associates. It's a good plan. This fellow that is building the golf course is moving a lot of dirt. That's why there are such long runs of pipe. He is building a golf course with fairways that cross these pipes, so he doesn't want large open waterways in certain areas where the golf balls land, so you might see some large long runs of pipe that you normally wouldn't see in other places and then John Stoll and I are working together on this one to make sure that these long runs of pipe will remain the responsibility of the golf course developer because they are not necessary to the drainage plan, they're being installed in order to build the golf course the way he wants it. So we don't want to take maintenance of those pipes and go out and tear fairways up. We have no experience with restoring a fairway, you know, so we're going to...the final plan will probably have some legal documents with it showing who will be responsible for the portion of the drainage facilities on the golf course. The calculations and everything submitted are sufficient for a preliminary plan, but you may wish to ask for comments from your audience.

President Mourdock: Okay, anyone in the audience wishing to address this particular subdivision, Cambridge Sub and Golf Course? Mr. Rexing.

Ray Rexing: Ray Rexing, 3 West Stacer Road, Haubstadt, Indiana. I would just like to reiterate what Bill said about the discharging the water out of the retention areas. Some of that water, even coming out of the retention areas, is going to come awful fast. I think if you'll note on a top. map that might be one of the highest points in Vanderburgh County, part of that property, so it's pretty well all HEL ground, so the water does move off of it. I guess my other concern is if the draw down on these retention areas, I know it's kind of nitpicky, but if you've got still...I farm just beneath it, just to the west of it, and if you have still weather conditions that water will sit on those retention areas still. Now two or three days later you start getting wind and that water starts lapping and that water will start discharging through there and part of our fields might be dry and may have dried through the course of those days and I guess what I am suggesting is I would like to see some of that water fed through a trickle tube or taken underground to the nearest ditch rather than spilling it out on the waterway or onto a field. Thank you.

President Mourdock: Anyone else wishing to speak on Cambridge Subdivision? Questions from the Board? Bill, do you care to make a comment regarding what Mr. Rexing just said on a trickle tube or going underground?

Bill Jeffers: Well, that is one I've never thought of. I can see his point because these are some pretty large lakes and if the wind...the wind would have to be from some other direction than...it seems to me that it would have to be from the east to cause that to

happen, but--

Ray Rexing: Not necessarily.

Bill Jeffers: --I'll pass that on to the design engineer and see what his thoughts are on it. I don't know where they would take it to an existing ditch. The only existing ditch goes onto the, I believe, to the south. Is that Riggs down there at the very southeast? I don't know what the condition of their field...how it would be affected if you took water over there and put it in their ditch, but I'll pass that on to the design engineer and we'll see what his response is.

President Mourdock: Any other comments from the audience?

Chris Weil: I'm Chris Weil, I'm an engineer with Sagamore Creek Development who is doing this development here. Unfortunately the design engineer from Bernardin Lochmueller couldn't be here. If you have any additional technical questions I would be happy to try and address them.

Commissioner Jerrel: I think the important thing is you've heard the issues that have been raised and I could find a height of 515 up here, I believe, somewhere.

Commissioner Tuley: It is 515, 520.

Commissioner Jerrel: Yeah.

President Mourdock: And 525, 530, 540

Commissioner Jerrel: So I think those are issues about coming down here to this area that drops off.

Chris Weil: A lot of that surface drainage will be going through lakes and when they hit the lakes they will be slowing down. I know Jim Farney has talked to Bill about some sort of dissipaters when the water exists the detention facilities and it is certainly going to be taken into consideration.

President Mourdock: Okay. The wish of the Board is?

Commissioner Tuley: I'll move approval on the primary understanding that this is a preliminary hearing.

Commissioner Jerrel: I'll second.

President Mourdock: Okay, so ordered. Again, for the benefit of the neighbors do you have any estimate as to when this might be back for final?

Chris Weil: Not December. Hopefully next month.

President Mourdock: In January? Okay, other business before the Board?

Any group or individual wishing to speak to the Drainage Board

President Mourdock: Anyone wishing to speak on any other issue?

Blue claims

President Mourdock: Okay, we have our claims, Bill.

Commissioner Jerrel: I would like to move approval to pay the claims for the ditch maintenance.

Commissioner Tuley: Second.

President Mourdock: So ordered.

**Sign location agreement
5625 Vogel Road Tri-Out Outdoor Advertising**

President Mourdock: We have a sign location agreement.

Joe Harrison, Jr.: That was--

Tony Greubel: It's in the signature file.

Joe Harrison, Jr.: That was approved--

Bill Jeffers: It was approved two months ago, but then you asked me to come back with an agreement.

Joe Harrison, Jr.: With the agreement--

Bill Jeffers: So that came back last month.

Joe Harrison, Jr.: Right, this is just--

Bill Jeffers: It has the other fellow's signature on it.

Joe Harrison, Jr.: Yeah, we just need signatures, but the overall waiver, I guess, was approved. It's just that we didn't have an agreement in place.

President Mourdock: Okay, just a formality some--

Commissioner Jerrel: I'll move...yeah, move approval of signing the previously agreed upon document.

Commissioner Tuley: Second.

President Mourdock: I will say so ordered. Just for the record that is titled agreement to relax drainage easement for location of commercial sign.

Correspondence

Bill Jeffers: Under correspondence I had some hate mail--

Commissioner Jerrel: Some what?

Bill Jeffers: --but I took it to a party and everybody got such a kick out it they wouldn't let me bring it back down here!

Commissioner Jerrel: So there is no official action?

Bill Jeffers: No, I can't find what I had. It was something, I don't know what it was.

President Mourdock: Any other business to come before the Board?

Commissioner Tuley: Move adjournment.

Commissioner Jerrel: I'll second.

President Mourdock: So ordered.

Commissioner Jerrel: I have a question, are you serious about not thinking you'll have anything for the 28th or you think you will have?

Bill Jeffers: The way these subdivisions are coming in it's like I don't know until Subdivision Review on the second Tuesday and then bam, here is a couple of big ones, you know?

Commissioner Jerrel: Yeah.

Bill Jeffers: I kind of had wind of this golf course, but Stonecrest was a surprise.

Commissioner Jerrel: So you just keep it and you see what happens?

Bill Jeffers: What did you all do last...didn't you all do something last year?

Charlene Timmons: Last year it was the fifth Monday between Christmas and New Years as it was the year before. It was the fifth Monday and we canceled that meeting.

Bill Jeffers: I mean, I'll be here. I'll be available for a meeting, but generally there is a lot of vacation time built up by a lot of people and they use it there towards the end of the year.

Commissioner Tuley: Do Commissioners get vacations?

Bill Jeffers: I mean, some of your other folks.

President Mourdock: I don't hear any raging agreement or disagreement as far as meeting next month.

Commissioner Jerrel: What do you...you all have more experience than I do.

Bill Jeffers: What you could do is you could do one like in the first week of January as a special meeting in case there was something that had to go to APC.

Commissioner Jerrel: Now we do have, you know, a new meeting schedule for next year.

Bill Jeffers: Uh-huh.

Commissioner Jerrel: And we do have one meeting, and I've got the list in there, but there is a meeting in January that we are not having, is that correct?

Commissioner Tuley: It would be like the 16th or...?

Commissioner Jerrel: Yes, we're not having that meeting that week.

Commissioner Tuley: At all?

Commissioner Jerrel: That meeting is being moved to the same night as the Area Plan.

Bill Jeffers: Okay, what is the first--

Commissioner Tuley: The first meeting in January is the 4th.

Bill Jeffers: What is the first Wednesday in January?

Commissioner Tuley: The 6th.

Bill Jeffers: So what I am saying is if you want to cancel the 28th--

Commissioner Tuley: You could do one on the 4th.

Bill Jeffers: --you could do one on the 4th and still beat APC by two days.

Commissioner Jerrel: Okay, what do you think?

Joe Harrison, Jr.: Since you all...unless you want to open up the meeting or we can do it at our next Commissioners' meeting as far as officially canceling.

President Mourdock: We don't have to do it as the Drainage Board?

Joe Harrison, Jr.: You can if you want to open back up. Otherwise you can do it at the Commissioners' meeting.

Commissioner Jerrel: Oh, I think I would rather open this back...

President Mourdock: Okay, we're still taping, so we're still rolling, so we're open.

Commissioner Jerrel: Okay, I would move that we cancel the 28th of December meeting and schedule it for if needed the 4th of January.

Commissioner Tuley: Second.

President Mourdock: So ordered.

Commissioner Jerrel: And permission to advertise.

Commissioner Tuley: Second.

President Mourdock: Again, so ordered. Okay, any other business to come before the Board this evening?

Commissioner Tuley: I'll move for a second adjournment.

Commissioner Jerrel: Second.

President Mourdock: Again, so ordered.

The meeting was adjourned at 7:40 p.m.

Those in attendance:

Richard E. Mourdock
Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Bill Jeffers
Ray Rexing
Jim Morley
Carolyn Eissler
Warren Deutsch
Chris Weil
Mike Rasche
Jan Bolinger
Tony Greubel
Others unidentified
Members of the media

**Vanderburgh County
Drainage Board**

—

Richard E. Mourdock, President

—

Bettye Lou Jerrel, Vice President

—

Patrick Tuley, Member