The Vanderburgh County Drainage Board met in session this 6th day of February, 2018 at 3:28 p.m. in Room 301 of the Civic Center Complex with President Ben Shoulders presiding.

Call to Order

President Shoulders: I’m going to call to order the meeting of the Vanderburgh County Drainage Board, today, February 6, 2018.

Pledge of Allegiance

President Shoulders: If you could please join me in the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

Approval of the January 23, 2018 Drainage Board Meeting Minutes

President Shoulders: I would entertain a motion for approval of the minutes of our previous meeting.

Commissioner Musgrave: So moved.

Commissioner Ungethiem: Second.

President Shoulders: We have a motion and a second. Any discussion of the minutes? If not, all in favor please signify by saying aye.

All Commissioners: Aye.

President Shoulders: All opposed same sign.

(Motion approved 3-0)

Submittal of 2017 Annual Drainage Report & Ditch Assessments for 2018

President Shoulders: We now move to the submittal of the 2017 Annual Drainage Report and Ditch Assessments for 2018. Jeff?

Jeff Mueller: Okay, you have in your package a folder with three items. First is the annual report on regulated drains. This report is required under Indiana Code 36-9-27. Now, the Indiana Code is not very specific on what's required in the annual report. When I took office I used Bill’s format, and have since added to this report, including color pictures which we, you know, you can now use with Word and all of those good things. I know you get a lot of paper from me, but this report sums up major activities for the previous year on the regulated drains. It outlines plans for next year, and also highlights proposed changes in annual maintenance, such as adding of mowing or additional footage or a process. One example is, as you may recall, we did an unplanned spray on the canal for the Creeping Primrose, and now the recommendation is that we do this as part of our annual work. So, in the back of that report you will find three 11” X 17”s that you can fold out, and that is a summary of the work that we are planning on doing this year. Now, at the next meeting, Linda is going to bring in that great big package of specifications and ask you to approve it, and those specifications are going to be based upon that three page spreadsheet. The other thing is, if you will look in that same thing, you will find a
color page like this, okay? You’ll see that on that it’s got the 2014, ’15, ’16 and ’17 costs, by drain, as well as the projected 2018 costs. Those projected 2018 costs come from that other three page spreadsheet that’s in the drainage report. Okay? That takes us to ditch billing, and that’s what I’m really here to talk about tonight. Okay? In Vanderburgh County we historically bill at the same rate per acre per year. It keeps things really simple, and it also simplifies, for a couple of things, first of all people know what their bill is going to be every year, and secondly, and more importantly, we are limited, by code, in how we can increase the rates. So, if we decrease rates one year, and then we try to increase the next, if we try to increase them by too much, then we’re into a legal notice situation where we’re doing certified mailings to everything. So, the easiest way to do this, and the way it was done under my predecessor, and I totally agree with it, is that we just use the same rates every year, but we do look at the balances for a couple of things. So, what I want to show you is that, if you see that the 2018 estimated cost, you will see two columns. One is four times the estimate, and the other is eight times the estimate. If the project balance, and let’s use Henry Ditch down there, it’s got a project balance of $11,988. Okay, if that project balance, if the estimated cost, if that project balance is less than four times the estimated cost, four times of the estimated cost, then you are supposed to bill. That’s in the code. By the same token, if the estimate is, if the estimate, if you take the estimate, like on Eagle Slough of $7,000 and you multiply it by eight, you get $63,000, and you’ll find in Eagle Slough we’ve got $64,000, by law we cannot bill that ditch, okay? The other issue is that between four and eight, which it’s up to the discretion on whether to bill or not, and that’s the orange colored one. So, there are five of them, and you can see that my multiplication, like, for example, on Eagle Slough you will see that the, it’s eight times two, the estimated cost is eight times two, so it’s out of that range. So, in other words, we’ve got the green, which you really don’t have any choice, you have to bill. The red which you don’t, and then there’s one, two….five yellow ones, and in those, Linda and I have looked at those, and we look at what we think is the work, and we look at what we think is the balance, and, you know, what’s going to happen. So, we recommend that on those ones which we do have some discretion, that Lateral B and Eastside Urban be billed; Aiken, Keil and Lateral A don’t get billed, okay? The other issue is that between four and eight, which it’s up to the discretion on whether to bill or not, and that’s the orange colored one. So, there are five of them, and you can see that my multiplication, like, for example, on Eagle Slough you will see that the, it’s eight times two, the estimated cost is eight times two, so it’s out of that range. So, in other words, we’ve got the green, which you really don’t have any choice, you have to bill. The red which you don’t, and then there’s one, two….five yellow ones, and in those, Linda and I have looked at those, and we look at what we think is the work, and we look at what we think is the balance, and, you know, what’s going to happen. So, we recommend that on those ones which we do have some discretion, that Lateral B and Eastside Urban be billed; Aiken, Keil and Lateral A don’t get billed, okay? So, with that, that’s where we’re getting to the meat. This is the request for the assessments for 2018, or that where we don’t bill. It’s important that we get this done quickly. I talked to our Auditor, actually I took his arm and bent it, and told him if he wants to get tax rates out, but, Brian, do you want to kind of tell them why it’s important that we…and, we’ve actually moved this schedule up every year.

Brian Gerth: Yeah.

Jeff Mueller: But it helps the county by moving the schedule up.

Brian Gerth: Once these rates are approved and passed on to our office, we basically attach them to the parcels that are supposed to get billed, but we can do this pre-work. We’re expecting to get our budget order anytime, so, by having this already in the system, then we can calculate taxes and it just flows a lot smoother. Because once we’re done with calculating the bills and getting our abstract approved, we can turn that over to the Treasurer so they can get the bills out in a timely manner.

Jeff Mueller: This used to be coming about in March, and so we keep moving it up. So, it helps them, which helps get the tax bills out. So, what I’m asking is a request for you to approve the rates for 2018.

Commissioner Musgrave: Move approval.

Commissioner Ungethiem: I’ll second it. The request, this is what will go out in the May, what is it, May 8th, or whatever it is?

Jeff Mueller: Uh-huh.

Commissioner Ungethiem: When the taxes go out?

Jeff Mueller: Uh-huh.

Commissioner Ungethiem: Okay.
Jeff Mueller: You can see your rate on there. I forget which drain you’re in, Commissioner Ungethiem.

Commissioner Musgrave: And in case anybody’s listening, I’m pretty sure we’re sending those bills out way before May 8th.

Brian Gerth: Oh, yes.

Commissioner Ungethiem: Well, they’re due May 8th.

Commissioner Musgrave: Yeah.

Brian Gerth: They changed, just for your information, they changed the due date. They have to go out by April 15th. Obviously, we’re gonna, our goal is to get it to the Treasurer before March 1st to give them plenty of time, and hopefully they can get them out even sooner. You know, so they have more time to pay.

Commissioner Musgrave: I know from past experience, when you say get them out on May 8th, their office is going to get a lot of calls.

President Shoulders: So, we have a motion and a second. Right, Bruce, you seconded it?

Commissioner Ungethiem: Yeah.

President Shoulders: Okay, so all in favor please say aye.

All Commissioners: Aye.

President Shoulders: All opposed same sign.

(None opposed)

President Shoulders: The motion passes.

(Motion approved 3-0)

Jeff Mueller: Thank you.

President Shoulders: Jeff, thank you, and, Brian, thank you for the clarity as well.

Jeff Mueller: Yeah, and like I said, the report is really not as nasty as it looks.

President Shoulders: Yeah.

Jeff Mueller: But, you know, you might want to read it. You’ll get a little idea of what we’re doing and where we’re proposing to do things.

President Shoulders: And, Jeff, thanks for going over this before the meeting as well, with me as well.

**Poet Square: Transfer of Drainage Plan: Form 801**

President Shoulders: Next we have Poet Square transfer, Jeff.

Jeff Mueller: Okay, when the drainage code was modified in 2015, a requirement was made that as part of the submittal, the developer sign a Form 801, so that the county knew who was the actual developer of a project. This requirement was necessitated because many plans were being submitted from engineer’s without any information on who was actually developing a project or a subdivision. As part of this requirement, the stipulation was also put in the code stating that, if the developer changed, that the new developer submit a Form 801 notifying the county that they were now the developer. So, with that history, we have a Form 801 for your approval for Poet Square, where Wayne Kinney is now the developer, where previously the developer was Brian Murphy. So, I’m requesting that you formally approve this submittal.

President Shoulders: This is just a transfer from one developer to the—
Jeff Mueller: From one developer to the other, and we’ve got the information, and that way everything, you know, when Mr. Kinney’s coming in with another section, Four, saying that he’s the developer, the drainage plan, everything matches up.

President Shoulders: Yeah.

Commissioner Musgrave: Move approval.

Commissioner Ungethiem: I'll second.

President Shoulders: We have a motion and a second. All in favor please say aye.

All Commissioners: Aye.

President Shoulders: All opposed same sign.

(None opposed)

President Shoulders: The motion passes for the transfer of Poet Square drainage plan.

(Motion approved 3-0)

IDNR Notifications

Jeff Mueller: IDNR Notifications?

President Shoulders: Yeah.

Jeff Mueller: Okay, as you know, I bring you every IDNR notification, because they are mailed to the Vanderburgh County Drainage Board, anything that’s done in Vanderburgh County. So, you have three of these. The first is regarding utilizing a portion of a site on Mt. Pleasant Road for a borrow site. This is the site that a rezoning was denied, so this may be a moot deal, but, you know, I’m sure they submitted the permit early. The second notification is actually a modification of that, because in their first one they said they were going to cover the site with six feet of top soil, and the revision says six inches of top soil. The third notification is a termination notice, which is for construction of wetlands and stream mitigation by the county in Union Township. John could tell you what that was for, but, essentially, DNR is terminating the, terminating it because they say it doesn’t fall under their requirements. That doesn’t mean you don’t have to have IDEM and the Corps, but what’s being proposed, DNR doesn’t require a permit. So, there’s just that notification in there. So, that’s the three notices that you have. I’m just giving them to you, and then Madelyn puts them in the book, along with everything else.

President Shoulders: And, I don’t believe we need a vote for this? It’s just a notification? Okay, thanks, Jeff.

Commissioner Ungethiem: Informational only.

President Shoulders: Yeah.

Ditch Maintenance Claims

President Shoulders: Ditch maintenance claims.

Jeff Mueller: Okay, you only have two claims. So, instead of doing a summary sheet, I actually gave you copies. The reason is, I want to tell you about one of them. One claim is on Eastside Urban, it’s for the 15% retainage for $176.77. The other is for $111.54 on Pond Flat Lateral A. Actually, at the last meeting, you approved a claim on Pond Flat Lateral A for $120. That was an error. It was caught down at the Auditor’s, so really instead of the $120, it should be $111.54. So, and by the way, that previous claim for $120 has been pulled. So, I’m just asking you instead to approve this corrective claim.

Commissioner Musgrave: So moved on all of that, in case you need a motion.

Jeff Mueller: Yeah, I need approval to pay the two claims.
Commissioner Musgrave: So moved.

President Shoulders: We've got a motion—

Commissioner Ungethiem: Second.

President Shoulders: --and a second. Okay, all in favor please say aye.

All Commissioners: Aye.

President Shoulders: All opposed same sign.

(None opposed)

President Shoulders: Ditch maintenance claims motion passes.

(Motion approved 3-0)

Other Business

President Shoulders: Other business?

Jeff Mueller: I have nothing else.

Commissioner Musgrave: I've had email conversations and telephone conversations with owners and with the attorney for the condo association, remind me of the name of that?

Shannon Frank: Hunter's Ridge.

Commissioner Musgrave: Hunter's Ridge.

Commissioner Ungethiem: Hunter Ridge.

Commissioner Musgrave: Just to let you know, Robert Kaster has emailed me saying that he can't make today's meeting, so he won't be here today, and it doesn't look like anyone else is here. But, as you know, we have been, I and John and Jeff have been contacted by one or more owners in the condo association, and they have some issues. Some of those I emailed to you earlier today.

Shannon Frank: Yes.

Commissioner Musgrave: I wondered if you could address the controversy.

Shannon Frank: Good afternoon. Shannon Frank, Kahn Dees Donovan and Kahn. I'm here on behalf of Dauby, let me think which entity it is, the developer of the condominium association. I spoke with Mrs. Musgrave this morning concerning some information that had been relayed to her, and I understand with Mr. Stoll, and I apologize I didn't have a chance to get with your office today. But, I have spoken with Mr. Dauby and he has acknowledged the correspondence that he received from John Stoll's office with regard to the drainage plan, he advised me that Scott Buedel and Glen Merrit at Cash Waggener have been working on an amended drainage plan. Glen and/or Scott were supposed to get with me today to confirm that, and I did not hear from them, and because of a meeting that I had intervening my time, before this meeting, I didn't have a chance to reach out to Scott or Glen. But, it is my understanding from my client, that they are working on an amended drainage plan to be submitted to bring everything into compliance with the way it's built and to address Mr. Stoll's questions in his May of 2017 report. I'm sorry Mr. Kaster isn't here. I have been corresponding with him, last week regarding the HOA and their turnover of that. There certainly was, the declaration provided for the developer to maintain and administer the HOA for a ten year period, and we are coming to the end of that ten year period, and I'm in the process of assisting with all of that. So, I think that that would address, which is not an issue for this Drainage Board, but I know that it was in some of the email correspondence that I saw, to various members here. So, I wanted to address that.

Commissioner Musgrave: So, Mr. Dauby is going to be correcting the paperwork for the drainage?
Shannon Frank: Yes.

Commissioner Musgrave: Doing the as-builds and coming back for approval?

Shannon Frank: Yes, through Cash Waggner.

Commissioner Musgrave: And, you'll be in contact with them soon about the HOA matter?

Shannon Frank: I've already...yes. Yes, I've already been in contact with Mr. Kaster, and I told him we're in the process of collecting...there's 52 supplemental declarations to the original declaration for this condominium unit. So, I’m in the process of making sure all of that is in order, and getting the budget and the bank accounts and everything to try and make an easy transition to the homeowners, if you will, of the development of the HOA. But it just takes a little bit of time to pull all of that together.

Commissioner Musgrave: Okay.

Shannon Frank: I've been in contact with them about scheduling a meeting at the end of the month. So, I spoke to Mr. Kaster, or emailed with him last week in that regard.

Commissioner Musgrave: Okay, well Mr. Kaster seems to think that he needs to have a meeting with me, the Engineer and the Surveyor to work through these issues. I don't see the need for that meeting, and I'll be emailing him back, but I think that he won't understand everything until he hears from you again.

Shannon Frank: Okay, sure.

Commissioner Musgrave: So, I would hope that between you and all of the other neighbors who were burning up the telephone lines down here, that we can get that all settled, and there will be no need for a future discussion of any kind. I see Jeff looking like he's going to say something.

Shannon Frank: And certainly I'm happy to field those calls, if you would prefer to send them my direction, so they don't have to field through your office.

Jeff Mueller: Let me, I was just wanting to explain a couple of things too.

Jeff Mueller: I know that, you know, like we just went through Blue Heron, and, you know, we had all kind of issues, and we held their feet to the fire, and, you know, it’s like, well, what’s the difference? Well, the difference is, is that this is a single lot, and what’s going on in there is there’s not, you know, drainage easements where we’ve got, you know, this ditch isn’t done so my drainage is blocked up. It’s all one ownership, and so, the complaints that the folks have, they’re internal complaints. They’re not things that are addressed in the drainage plan. I’ll use an example, for example the streets were shown to be concave and carrying the drainage. Well, some of them aren’t, but that’s no different than if you built a house and instead of the driveway draining away from the house, it drained down and water got in the garage. That’s not a drainage plan issue. That’s an issue between, you know, the builder and the homeowner. So, a lot of the issues out there that people are complaining, what we tried to explain is, this doesn’t have anything to do with the drainage plan. Yeah, there’s a few things that need to be addressed in the drainage plan, but a lot of the issues that folks may or may not have are not issues concerning this Board. We’ve tried to express that to them. John and I have offered, well, I even told one lady, you get a group of people out there and John and I will come out, and we’ll talk to you. They may not like some of the answers they hear, but, you know, we only can do what’s on the plans and what’s in the code. So, because most of the drainage is on site, Wolf Creek is a different example, you approved a drainage plan there, but a street comes in, you’ve got offsite drainage, so, there’s drainage easements and we deal with it. This is not that situation. It’s all concise, single lot, even though there’s multiple homeowners. So, I just wanted you guys to all understand why it doesn’t look like John and I aren’t doing anything. It’s, there’s not a lot we can do.

President Shoulders: Yeah. Okay.
Shannon Frank: Alright, thank you for clarifying that.

Commissioner Musgrave: We’re firmly of the opinion that the HOA, as soon as possible, we feel, they need to get a lawyer of their own. But, anyway, I throw that out there.

Shannon Frank: Alright.

Commissioner Musgrave: But, thank you so much for your attention to this matter today. Thank you for coming.

President Shoulders: Shannon, thank you.

Shannon Frank: Uh-huh, thank you.

President Shoulders: Any other—

Jeff Mueller: I don’t.

President Shoulders: Okay.

President Shoulders: Public comment? Anybody here for public comment?

President Shoulders: Do we have a motion to adjourn?

Commissioner Musgrave: So moved.

Commissioner Ungethiem: Second.

President Shoulders: A motion and a second. All in favor please say aye.

All Commissioners: Aye.

President Shoulders: Opposed same sign.

(None opposed)

(Motion approved 3-0)

President Shoulders: We are adjourned.

(The meeting was adjourned at 3:47 p.m.)

Those in Attendance:

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<tr>
<th>Ben Shoulders</th>
<th>Bruce Ungethiem</th>
<th>Cheryl Musgrave</th>
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<tr>
<td>Jeff Mueller</td>
<td>Joe Harrison, Jr.</td>
<td>Madelyn Grayson</td>
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<tr>
<td>Shannon Frank</td>
<td>Brian Gerth</td>
<td>Others Unidentified</td>
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<td>Members of Media</td>
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VANDERBURGH COUNTY DRAINAGE BOARD

Ben Shoulders, President

Bruce Ungethiem, Vice President

Cheryl Musgrave, Member

(Recorded and transcribed by Madelyn Grayson.)