The Vanderburgh County Drainage Board met in special session this 29th day of June, 2016 at 4:00 p.m. in Room 301 of the Civic Center Complex with President Stephen Melcher presiding. The sole purpose of this meeting was to address drainage issues pertaining to The Enclave at Eagle Cliff Subdivision.

Call to Order

President Melcher: We’re going to go ahead and start the special meeting of the Drainage Board. It’s June 29, 2016.

Pledge of Allegiance

President Melcher: If you would rise for the Pledge.

(The Pledge of Allegiance was given.)

Attendance Roll Call

President Melcher: Do you want to call the roll?
Madelyn Grayson: Commissioner Kiefer?
Commissioner Kiefer: Here.
Madelyn Grayson: Commissioner Ungethiem?
Commissioner Ungethiem: Here.
Madelyn Grayson: President Melcher?
President Melcher: Here, we have a quorum.

Enclave at Eagle Cliff Update

President Melcher: Do you want to go ahead and start?

Jeff Mueller: Yeah, that’s fine. You’ve got a handout that I gave you, and in that handout is a punch list for Section IV and V, which I think you also received by e-mail, as well as you have an IDEM letter with an inspection that is from May 19th that refers back to an inspection from April 27th. So, you’ll see some of the items on the punch list were some of the things that IDEM brought up. Then you will have two fold out sheets; one of Section IV and one of Section V. I did highlight on yours, in blue, where the basins are, because I know these are plats and it’s not real apparent where the basins are on these. So, when we’re talking about the two different areas, you’ll know where the basins are. Okay? The punch list, as you are aware, we did an inspection on Monday, June 27th. The inspection started at 1:00, and went for almost two hours. Commissioner Ungethiem was along on the inspection, along with Mr. Stoll and I. There were representatives there from Jagoe, the home builder, and from the developer. So, we had quite a crowd there. I don’t think I’ve seen three attorneys sweat that much in a long time. Sorry, Joe, I had to get that in.

Commissioner Kiefer: What about a couple of engineers? Did they sweat?

Jeff Mueller: Hey, I always sweat.
Commissioner Ungethiem: It was warm.
Jeff Mueller: If you wanted to see it, you should have seen me frying chicken last weekend. So, anyway, what we did was we put together a punch list on Sections IV and V. I do want to tell you that the punch lists refer only to drainage issues. They don’t refer to streets and some of those things that would, you know, come into effect, you know, if John was looking at releasing a letter of credit or something like that. So, I would also tell you that the punch list for these, they are fairly long, but, especially for Section IV, some of these are no different than what we would have on some of our other subdivisions. So, even though there’s some long items there, when we start getting into these type of punch lists for some of our other subdivisions, similar to what we do on IV. I don’t know if you want to go through these individually. I didn’t really have it planned that way, but, you know, like, for example, on Section IV, which is, if you look on your plat, that’s the majority, I think it’s the 19 lots that were being discussed. It has Basin 2. Basin 2, there’s some things that need to be done on it. One was that the orifice plate needs to be verified. There’s some seeding that needs to be done, some erosion control that needs to be done around that area. There’s been quite a bit of erosion control that was done in that area within probably the last week. There’s still some work that needs to be done on the overflow. The emergency weirs at the end of the streets need to be done. We still need to have some record drawings on the swales. The swales were constructed, but they have some standing water in places. We need to also make sure that they’re to code. We had one swale that was constructed, it’s kind of squeezed in an area, the side slopes don’t meet the code. So, either it needs to be reconstructed, or a variance needs to be requested on that. There was a considerable amount of work done on Lots 13 and 14. A little bit more work needed to be done. Lots 26 and 27, which is, those four lots are the ones that leave the property and had been problems in the past. On those particular lots, on 13 and 14, where the erosion control was real good, they still needed to do some blankets on 26 and 27. As always, once this work gets done, it still needs to be maintained. You know, we can’t stress that enough. On Section V, we have a little bit bigger issues there, in that, you know, we’re still seeing silt in Felstead Road. The concern with that is that it’s still not meeting the criteria that it should be meeting, and therefore we’re still getting siltation problems off property. You know, this was brought up, you know, in the past violations, and it’s one of the things that’s kind of brought this thing all to a head. There’s been some work done there. The commercial area was seeded, there was a down drain put there, so that’s helped that area quite a bit. One of the things though that I think concerns us is that, with that being a commercial area and a drive that’s supposed to be put in there, they need to have an INDOT permit. The INDOT permit may require some clearing for site distance. So, we really don’t know what’s going to happen in that area, nor do we really have what I feel is a good plan to know that, well, if INDOT requires clearing and the hill to be taken down, how are we going to protect this area from additional erosion? So, the bigger problem that I see out there is on Section V. John, do you have anything that you want to add to this?

John Stoll: Like Jeff said, there were some concerns about the site distance for that commercial driveway where it comes out on Felstead Road. It comes out in county right-of-way, but it’s immediately south of INDOT right-of-way. I found some old e-mails that indicated that there may be as much as ten feet of embankment cut off of that hill, in order to lay it back at a 3:1 slope. A permit was filed at one point, but it was never followed up on. If the excavation ended up being that significant, like Jeff said, that would be a cause for concern for the adjoining properties.

Jeff Mueller: So, I think, with that, I know there’s probably some…unless you have questions of me, I know there’s some people here that probably would like to speak. So, do we want to open the floor up to them?

President Melcher: Do you have any questions of the Surveyor right now?

Jeff Mueller: Bruce, do you have—

Commissioner Ungethiem: On point number seven it says, “There is no design or drainage easement for the existing swale located on the west side of Lot 57.”

Jeff Mueller: That was the ditch we looked at, yeah.

Commissioner Ungethiem: That was the ditch on the very west side?
Commissioner Ungethiem: Do we need to have a drainage plan for that ditch before we can approve?

Jeff Mueller: We should have something there, yes. I mean, if they're going to have a ditch there to show runoff.

Commissioner Ungethiem: It's hard to approve something that's not there.

Jeff Mueller: Yes.

Commissioner Ungethiem: We don't have a plan for that ditch.

Jeff Mueller: Yeah, we should, I mean, we should have a plan for that, yes.

Commissioner Ungethiem: My understanding is also, that on the road cut on Felstead Road, where they may have to peel that bank back, we have no plan for how they're going to do that.

Jeff Mueller: No, we do not, because we don't have an approved INDOT permit.

Commissioner Ungethiem: So, there's a couple of places there where we don't even have an engineering drawing that would show how they're going to do that.

Jeff Mueller: That's correct.

Commissioner Ungethiem: Okay.

Jeff Mueller: Any other questions of me? If not, we'll open the floor?

President Melcher: Okay, who wants to go first?

Jim Johnson: Good afternoon. We're here, once again, to ask for all of the lots to be released. Specifically concerning the punch list, Jeff Stemaly can answer any questions concerning the punch list, and also concerning the issue of the ditch along Lot 57. The INDOT permit, we had an INDOT permit, but because of delays the INDOT permit lapsed. We're obtaining—

Jeff Stemaly: It's expired and we're going to renew it.

Jim Johnson: It's expired and we're going to renew it. Why don't you speak, Jeff, speak to the issues with the other ditch, the ditch along 57, sorry, and to the issues in the punch list.

Jeff Stemaly: Hi, Jeff Stemaly. I represent the LLC. As you're aware, we inspected the unapproved swale along Lot 57, that was...it was installed in anticipation of future development on the four acres adjacent to the highway. At our meeting we talked about obtaining, to ensure that it would be a ditch, we're going to dedicate a drainage easement to that area. I've already contacted Morley and they're working on that. I don't recall us talking about having a design at this time, because we don't know the future of that property, but we were going to get an easement put in place so that it would forever be a drainage easement, and let a future engineer come before the Board and tell you how they're going to drain it. So, that was that issue. The issue with the line of sight, as Jim spoke previously, we had a permit from INDOT to do the work, to clear the trees and vegetation off of their right-of-way. As you're aware we were shut down for a period of time, in that period of time the permit lapsed. So, we have to go through the process of having the permit renewed. I don't anticipate substantial earth moving. I would rather just take the trees and vegetation down and not move any more than I have to, not disturb any land. I don't intend to do any more than we absolutely have to. If we can cut the trees down and leave it like that, I would prefer to do it that way. To answer your question, I would be glad to look into it and see exactly what is entailed, to give you some security or something.

Commissioner Ungethiem: But, there is a good possibility that you would have to strip some soil off of that to get the slope correct?
Jeff Stemaly: On the INDOT property?

Commissioner Ungethiem: On the INDOT property.

Jeff Stemaly: I have no intention of doing any more than we have to to get that line of sight. My initial thought was that we would have a tree company come in and cut the trees off at ground level, and try to achieve the site that way. So, it would just be more like a vegetated slope, rather than de-vegetate the slope. I don’t, I want to avoid that scenario. As you mentioned, you would like to see more, something more in-depth, and I agree.

Commissioner Ungethiem: Yeah, we need to understand what the finished product is going to look like, I think, in order to—

Jeff Stemaly: Okay.

President Melcher: When you had your permit before, which has run out, was there anything that INDOT required at that time? Is there anything there that you knew you were going to have to do?

Jeff Stemaly: Well, we have to abide by all of INDOT’s guidelines.

President Melcher: Uh-huh, and did they give you some guidelines when they gave you the permit?

Jeff Stemaly: I don’t know that there was ever an engineered plan done for what is going to happen on that property. They gave us a permit to de-vegetate it, and cut it, cut the existing vegetation down to get the line of site. I believe if we go any further we’re going to have to talk to INDOT, and get them more involved. I don’t think we can do any kind of earth moving or mass earth moving on an INDOT parcel. I believe we can do minor maintenance, such as cutting trees down and vegetation, but to do mass earth moving, I don’t think that was ever the intent of an INDOT permit.

President Melcher: Okay.

Commissioner Ungethiem: So, the steps at this point are to get the INDOT permit, then get the engineers to lay out what’s actually going to happen there, and then would you come back to the Drainage Board for a final approval of a revised drainage plan? Is that my understanding of how that works? Maybe I’m looking to Jeff to answer that question as well.

Jeff Stemaly: I don’t know that that’s going to be a drainage issue. I don’t know that we’re going to change any kind of drainage. As I mentioned before, I would like to just cut the trees off at ground level, mow the vegetation down and just have a vegetated slope. That would be my preference. From our property line in, I don’t, INDOT’s not going to let us do mass earth work on their property without a detailed plan, and that was never the intent.

Commissioner Ungethiem: But, at this time we don’t know those final plans?

Jeff Stemaly: All that we had, we were trying to get the line of sight, and we had a permit to clear the land. Clearing would entail removing the trees, such as cutting them off at ground level, de-vegetating by mowing, and such as that. It’s not a permit to go in and do mass earth work.

Commissioner Ungethiem: Okay.

Jim Johnson: Then, as far as the other punch list items, we’re going to work on them. Section V, items three, four and five, will require a water main extension, which I believe you’re going to do in August?

Jeff Stemaly: We have a water main extension that has to go along Felstead Road, 100 to 150 feet to the north end of this proposed drive, and it’s in anticipation of future development in that area. I did not want to do it over the winter, spring, I would rather wait until August-September, the driest months of the year, and do it. It’s going to require some coordination issues to maintain the integrity of our erosion control. So, those items, items three, four and five, will be addressed immediately after the water line is put in.

Commissioner Kiefer: You’re talking about on Section V, right?
Jeff Stemaly: Yes, that's correct.

Jim Johnson: Then, to conclude, I think the people who were out there, they can attest that we’ve done a lot of work, us along with Jagoe, have done a lot of work in getting, in complying with the conditions of the drainage plan. We believe we've substantially complied, and we would ask that all of the remaining lots be released.

Commissioner Kiefer: Including Section V, right?

Jim Johnson: Yes.

Commissioner Ungethiem: So, just for clarification, you’re asking for the three wooded lots; 38, 39 and 40?

Jim Johnson: Yes, sir.

Commissioner Ungethiem: You’re asking for 9, 10, 11, 12, 13, 14, 15, 16, 17, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32?

Jim Johnson: Yes, sir, and then the lots in Section V.

Commissioner Kiefer: Which is the commercial lots, 59 and 57 and 58?

Jim Johnson: Yes, sir, plus 50 and 51.

Commissioner Ungethiem: You’re also asking for 50 and 51?

Jim Johnson: Yes, sir.

Commissioner Kiefer: Right, okay.

Commissioner Kiefer: Those are residential lots, 50 and 51.

Jim Johnson: Yes, they are a little different because they have a walk out basement. Is that accurate?

Commissioner Kiefer: Right.

Jim Johnson: Yes.

Commissioner Kiefer: Okay.

President Melcher: Anything else?

Jim Johnson: No, thank you.


Marco DeLucio: Good afternoon. Marco DeLucio on behalf of Jagoe Homes. I just want to reiterate a couple of things that I mentioned at the last Drainage Board meeting, and then a couple of things that I heard here today. Mr. Mueller went over Section IV and indicated most of that work has been done. There’s some minor things that need to be done. There’s probably no difference than any other new subdivision in Vanderburgh County. Releasing those Section IV lots would allow Jagoe to go ahead, it would allow the platting process to continue, and once the plat has been completed and filed, it would allow Jagoe to purchase those lots and begin to build houses. As we mentioned before, 19 of those 21 lots have already been spoken for by Jagoe. There’s commitments out there to buy them, and as soon as Jagoe can acquire ownership of those properties, it will begin the process of building those homes. In the process of building those homes, they’ll have separate erosion control measures for each of those lots where there’s construction going on. So, it will replace what’s out there right now. I think most of the issues you’ve heard about today are in Section V. There are a couple of residential lots in Section V, those are, obviously, we would like to see all of the lots released so we could acquire all of the lots and begin to develop all of those, however, we understand that there may be issues with that, and, you know, at this point, Jagoe just wants to get started and begin to develop some of these properties and build houses which creates a tax base for Vanderburgh County. So, we would request, we join in Mr. Johnson's request to release all of the lots, however, we also understand there may be issues with that, and this will, if
you release Section IV, will allow Jagoe to begin to develop those lots. I would also point out that I don’t think any of those lots that we’re talking about in Section IV drain into any aspect of Felstead Road. They all go to the west, and I think those drainage issues have been adequately addressed at this point. The erosion control is almost there, there was some blankets that needed to be, some matting that needed to be put down on a couple of those lots, and we understand that. That may be already happening. I haven’t been out there since we were there on Monday. So, our request, again, is to release all of the lots. We understand that if that’s not possible, that Jagoe, if it can acquire the 19, the Section IV lots, that we can proceed that way, allows some development to begin in the summer months, and we won’t lose another building season. So, appreciate your consideration of that, especially appreciate Jeff and John showing up on a hot day, on Monday, and Bruce to show up out there on Monday to take a look at things. We spent a couple of hours out there, and I think it was time well spent. Thank you again for doing that.

President Melcher: Well, I think that’s kind of why we’re having this meeting is to find out where we’re at, and Section IV was the one that we were talking about. Isn’t that the one that we were looking at and trying to release? Because I don’t think we’re ready to release the commercial yet. Where’s Mueller at?

Jeff Mueller: I’m back here.

President Melcher: Why did you hide back there for?

Jeff Mueller: I’m off camera back here.

President Melcher: Okay. I wasn’t forgetting you.

Ted Ziemer IV: Good afternoon. Ted Ziemer, Bingham Greenebaum Doll. I’m here again on behalf of Barbara Bolin. I think yesterday was a, or Monday, excuse me. Tuesday, Monday, was a productive and worthwhile meeting out there. I also thank John and Jeff and Bruce for taking the time to do that. I agree that it looks like substantial work has been done by Jagoe in cleaning up the underlying problem. Although there is still a fair amount of standing water in the ditch along Felstead Road, which is, from speaking with the engineers, the primary cause of what’s running off into Ms. Bolin’s pond. Opposing, the developer’s counsel has told IDEM, and I think would like you to believe that sediment is coming from a lot of sources, it’s not just from their development. We’ve got some people here, Ms. Bolin, and then some of her neighbors or friends that have fished and swam in the pond for 15 years or longer. The pond is 28 years old, and by all accounts the first 25-26 years of the pond’s life it was in pristine condition. Jim Morley, Jr. said to me that prior to Eagle Enclave’s construction, the pond was in, his exact words were, “pristine condition”. Bruce, I think you can attest from being out there, that it’s far from that state today. I do have some photos taken from just prior to Eagle Enclave’s construction, and then some that show its state today, for me to pass those out. I don’t know if, for Steve and Joe who weren’t able to be there.

Commissioner Kiefer: Thank you, Ted.

Ted Ziemer IV: So, they go in order from one to seven. The oldest at the top. This is a pond, no one has ever said it’s clear blue, but the older, the very top picture is the oldest one, and Ms. Bolin described it as sort of a golden cappuccino color. I agree with that assessment. The next two were taken shortly after the construction commenced, and you can see along the edge of the pond the beginnings of the sediment that is not there in the first picture, which was taken in 2013. As you go along past pictures three, pictures four, five, six and seven, you see that sediment growth now is extending eight feet, ten feet, 12 feet out from the water’s edge. Pictures don’t do it justice. When you’re there, I mean, it’s a thick, pond scum. It no longer looks like a centerpiece of a yard that, I believe, it once was. Eagle Enclave has continually made promises, both to this Board and to IDEM that they would clean this up, and they’ve not followed through. As evidenced by the very lengthy punch list that John Stoll prepared of items that still need to go, and we feel that if these lots are allowed to be released, Enclave will simply sell them, pay off the bank, it will be a shell entity that has no money at that point, they’ll move on to their next development, and we will have no recourse. So, for that reason, we ask that this Board follows IDEM’s lead, in the agreed order, and waits to release these lots until Ms. Bolin’s pond can be adequately and sufficiently cleaned, in whatever is the best manner to do
that. Whether it’s dredging, whether it’s draining and refilling after everything is cleaned out. We also understand that IDEM and this Drainage Board are two separate entities, and it’s not your duty to enforce IDEM orders. However, we do feel like it is this Board’s duty to ensure that developers follow the correct processes, erosion control measures when they do developments, so that adjacent property owners can be protected. In this case, we feel like the system has failed Ms. Bolin, and we would like to see that rectified. The developer has not done what he has promised, and we still have an adjacent landowner who’s been harmed. So, we feel like we can right that wrong, if we can prevent these lots from being released until her pond can be cleaned. That’s what we’re asking. Alternatively, at the very least, hold back the commercial lots, and the residential lots in Section V, so that we at least have some leverage and means to go after the developer and see that Ms. Bolin can have a clean pond again. So, on that note, I’ve got Barbara Bolin here, along with Carolyn Carneal and Maurice Dillender. If you guys want to come up and….Mo has fished the pond for a number of years, and Carolyn and her daughters swim in the pond, or used to. Ms. Bolin?

Barbara Bolin: Hi. I would like to say, just to start this off, that I was here at the meeting before this subdivision was approved. I was not against this subdivision. I had, I didn’t care what was over there. I can’t see it nine months out of the year. But, when it started causing me problems, I contacted everyone that I knew in 2013, 2014, 2015 and we’re into 2016. I have not gotten anything resolved from anyone. I would like it taken care of. I would like it to be approved where he has to take care of this. He can continue on building after it’s approved to get my problem taken care of. In all of these years, Monday was the first time that anybody came out to look at my problem. No one has came to look to see what my problem is, why I’m complaining, but there is a problem. But, I just wanted to make everyone aware of the fact that I don’t care what’s over there, as long as it doesn’t bother me. Pretty much, I guess that’s probably all that I need to say. It makes me nervous.

Ted Ziemer IV:  That’s okay. Carolyn?

Carolyn Carneal:  Hi, I’m Carolyn Carneal. We have all fished that lake for years. It was gorgeous, crystal clear. The kids used to swim in it, now they prefer the pool, because it is just a disgrace. The right upper end used to be deep and gorgeous, and lots of good fish up there, now it’s a mucky little mess, and it stinks, and the mosquitos are going to be horrible.

Ted Ziemer IV:  One and a half feet deep.

Carolyn Carneal: Yeah, it’s one and a half feet deep, when it was 20 when Joe and my husband built it. It’s just so sad to see his legacy go down into a little, mucky pit. I want Barb to have some justice, please.

Ted Ziemer IV:  Mo?

Maurice Dillender:  Maurice Dillender. I fished that pond for the last 20 years. That was a good fishable lake. I missed a couple of years of not fishing, and I come back to fishing it, and it’s not the same lake. There’s no depth to it. You can find one area in it that’s probably about nine foot deep. If you try to fish it within three foot you’re on the bottom, on the northern end of it. All I can say is, it’s really unfishable now. Of course, I never did swim in it, but I did fish it.

Barbara Bolin: I do have one other thing I need to say.

Ted Ziemer IV:  Sure.

Barbara Bolin: During this whole meeting on Monday, the conversation was the fact that he did not want to take care of something that had developed over the years. Do you think that I would let something develop over the years without taking care of it? Or if there was another problem with someone else draining into there, that I wouldn’t have tried to take care of it? I would have, just like I’ve tried with this. Thanks.

Ted Ziemer IV: Thank you.

President Melcher: Thank you.
Commissioner Ungethiem: Thanks.

Jim Johnson: If I may respond? I promise I will be very brief. I provided you with documents last time I was here that showed you that 51.5 acres of mainly INDOT land drains into that pond. I provided you with the report from ATC concerning what they found, and our analysis of that. I’ve also stated, on more than one occasion, that issue is an issue between Ms. Bolin and us and IDEM. We are dealing with IDEM on that issue, and that remediating things from the past are not part of the criteria in determining whether to approve a drainage plan or to release lots. Thank you.

President Melcher: Jeff?

Jeff Mueller: After we did the inspection, John and I went and drove the drainage area. I’m going to give you guys this map. We didn’t walk every square foot of that drainage area, but outside of if somebody had a garden tilled up, there’s been nothing disturbed in this drainage area for years. The homes on the other side of the highway have been there, the grass has been there, the trees have been there. So, we can stand here all day and argue about what’s caused that, but I sure can’t see how something on the other side of the highway caused it. There’s not been any new developments or anything else there. I’m just going to speak to Section V here for a minute. I know Mr. Johnson says that it’s between them and IDEM, but, you know, IDEM, in their violation talked about siltation on the east side of the property, and an offsite pond owned by Barbara Bolin, and a road ditch. So, I don’t know how you can say that IDEM, that’s between them and IDEM and we shouldn’t be involved in it, because IDEM directs these issues about sediment coming into the roadside ditch and going into her pond. So, I respectfully disagree with that. I do believe that, and I also will state that, you know, we have a requirement of an 80 percent soil, you know, suspended solids removal. Bruce, you saw that ditch, if that’s the 20 percent remaining in that ditch, I would hate to think what the 80 percent was that was left behind. I mean, we’ve got a problem there. I think Section V should be withheld, as with the two residential lots, because the two residential lots are on that basin. I think that this problem needs to be solved at the source. There’s been work that’s been done to that point, but I think this source problem on Section V needs to be resolved before anything further is moved on. That’s my comments regarding Section V. As far as the INDOT permit, let them get the INDOT permit, let the INDOT permit state what needs to be done, and let’s make sure also that whatever INDOT requires, because if INDOT requires more than just tree removal, if they require some soil removal, I think the county deserves to see a good plan that’s going to show, first of all; that that ditch is cleaned, that no more siltation is going to go to Ms. Bolin’s property, and that anything that they do there in the future is also going to be contained. I do want to point out one other thing, Ms. Bolin, you didn’t realize this, but we have been by your property a number of times. We could see the problems. We have not—

Barbara Bolin: You have not walked it though, have you?

Jeff Mueller: No, but I could tell what was going on.

Barbara Bolin: I mean, I appreciate it—

Jeff Mueller: No, I understand that, but, I just, there are people watching this program, and I don’t want them to think that we have not tried to address your problem. We’ve been in meetings and John and I have been on inspections with IDEM, we went up to the Corps of Engineers and met with them when some of this all came about. So, we’ve been involved a lot, it’s just that you probably didn’t know about some of those things.

Barbara Bolin: Probably not.

Jeff Mueller: Okay, but I just wanted to let you know, we have not, believe me, if I was a consulting engineer on the outside and charging my rate, I would have had a pretty nice fee coming in over these years on this project. So, and I think the Board can attest to how much time we’ve put in, both myself and Mr. Stoll, and even Mr. London in the back with APC. We’ve all spent a lot of time on this project. So, that’s my comments on Section V. If you want a recommendation, please do not allow Section V to move forward.

President Melcher: Any questions?
Commissioner Kiefer: No, I don’t have any questions, but do you want to go ahead and...do you got some?

Commissioner Ungethiem: Can we do this in two phases?

Joe Harrison, Jr.: Yes, I would take Section IV first and then go to Section V.

Commissioner Ungethiem: Okay.

Joe Harrison, Jr.: If that’s what you want to do.

President Melcher: Well, could we, if this is going to pass forward, do we even have to talk about V?

Joe Harrison, Jr.: Well, I think, I think that request has been made, and I think it would be a good idea to take—

Commissioner Kiefer: Action.

Joe Harrison, Jr.: --some action on what you want to do.

Jeff Mueller: Can I make a recommendation on IV? Two conditions; bullet point number four, with the emergency overflow weirs, that that would be made a condition of approval.

Joe Harrison, Jr.: Four?

Jeff Mueller: Uh-huh, and my second condition would be, there’s quite a nice list here, if they would give us a schedule of when they’ll address these. A reasonable schedule, I’m not saying, okay, we’ll come back with a schedule and we’ll have it all done next week. Sit down with the engineering firm on what needs to be done, figure things out, but let’s have a schedule that says, you know, we’re going to approach these bullet points, the rest of them, and they’re going to give us a schedule. Like I said, it just needs to be a reasonable one, not something that says, oh, next week we’ll have it all done or anything, but just something so we know that they’re going to be working toward the completion of these items.

President Melcher: I think John has—

John Stoll: I just wanted to throw in one more statement about Section IV. If that is going to be approved, it will be critical that the erosion control be maintained properly on every lot that’s under construction, because there have been sediment problems downstream of Basin Number 2. I was out there, it has probably been a year and a half ago, but there was definitely evidence of sediment heading out the west side of the site as well. So, if those houses are going to be released for construction, it will have to be maintained and maintained very well in order to prevent problems from occurring and sending sediment out the west side of the sub.

President Melcher: I’m sure we’re going to put our tent back up out there. (Inaudible. Microphone not on.)

Commissioner Ungethiem: Okay, I—

Joe Harrison, Jr.: Have Jim Morley address that.

Commissioner Ungethiem: I would like to make a motion first on Section V. I would make a motion that Section V not be approved at this point in time, for the following reasons—

Commissioner Kiefer: I think you have to do it in the affirmative, don’t you?

Commissioner Ungethiem: -- I understand that we still have a sediment issue leaving Section V, and it is our responsibility, by ordinance, to make sure that that sediment does not leave the site. So, from that standpoint, we have a legal obligation to make sure that sediment doesn’t leave this site. I also asked and was indicated to me that we don’t have an adequate plan for the ditch on the west side of Section V, and we don’t have an adequate plan for the road cut and what’s going to happen with the INDOT property, as they do the road cut and how we manage the sediment and the runoff at that point in time. So, for those three reasons, I would make a motion that we do not approve a Section V,
do not approve Section V at this time. That indicates, or that includes Lot 57, 58, 59, 51 and 50. I make that in the form of a motion.

President Melcher: Before we have a second, can we do that in the negative?

Joe Harrison, Jr.: I don’t see a problem with that, given the conditions he’s put on it.

President Melcher: Okay, because mostly—

Joe Harrison, Jr.: Or the reasons, I’m sorry.

President Melcher: Okay, I just wanted to make sure that we’re doing it right.

Joe Harrison, Jr.: Yeah.

President Melcher: Because normally—

Commissioner Kiefer: So, voting yes actually means no.

Joe Harrison, Jr.: Yes, means no.

Commissioner Kiefer: Okay.

President Melcher: We want everybody to get that clear, because I’ve seen it mixed up a lot of times.

Commissioner Kiefer: Okay, I’ll make a second to his motion.

President Melcher: Okay. Roll call.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: I’ll vote yes.

Madelyn Grayson: Commissioner Ungethiem?

Commissioner Ungethiem: I’ll vote yes.

Madelyn Grayson: President Melcher?

President Melcher: I’ll vote yes, because that’s a no.

Commissioner Ungethiem: And Section V will not be approved.

President Melcher: Section V.

(Motion approved 3-0 to Not Approve the Release of Lots for Section V.)

Commissioner Ungethiem: Do you want me to, or do you want to, it doesn’t matter.

Commissioner Kiefer: I’ll make a motion to approve Section IV, with the stipulations that our County Surveyor has put on record, that he mentioned just a few minutes ago.

Joe Harrison, Jr.: Which would be, punch number, item number four?

Commissioner Ungethiem: Number four.

Joe Harrison, Jr.: Which is construct the emergency overflow eirs at the ends of Arden Court and Clift Wood Drive prior to a certificate of occupancy being granted for homes on Lots 12 and 13, Arden Court, and 27 and 28 on Clift Wood Drive.

Jeff Mueller: Yes.

Joe Harrison, Jr.: And, then you want a reasonable schedule provided to your office?

Jeff Mueller: To the Drainage Board, yeah, to our office. If they could give it to us by, let’s see, next week is the 7th, so the following Drainage Board would be the 21st\(^1\). So, if they could just provide us with a schedule by the 21st—

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\(^1\) Should be July 19, 2016.
Joe Harrison, Jr.: Of when they—

Jeff Mueller: -- of when they anticipate finishing all of the other bullet items.

Joe Harrison, Jr.: One through three, and five through 11.

Jeff Mueller: Uh-huh.

Joe Harrison, Jr.: On the punch list.

Jeff Mueller: Uh-huh.

Joe Harrison, Jr.: Just whatever the schedule is, give you a reasonable schedule.

Jeff Mueller: Yes, so that we have something that we can kind of keep an eye on and say, you know, if that means they’re going to get the ditches done by the end of September, or, you know, redo them and all that, just, you know, a reasonable schedule that they feel they can meet.

Joe Harrison, Jr.: And, then a final condition would be, I think that Mr. Stoll indicated, that the remaining lots that are released be properly maintained.

Commissioner Ungethiem: By the homebuilder, as they are building the homes.

Joe Harrison, Jr.: Right.

Commissioner Kiefer: Correct, so, that’s my motion.

Commissioner Ungethiem: For clarification—

Joe Harrison, Jr.: Mr. DeLucio may have a comment.

Marco DeLucio: Could I introduce Bill Jagoe for a moment. We’re just a little, we’re a little unclear what it is, the conditions are. We just want to make sure we understand, so we do what you ask us to do. Bill?

Bill Jagoe: I’m Bill Jagoe with Jagoe Homes. I think my concern is number, looking down through here quickly, number three, where it says, “Basin 2 has a rock filter installed for erosion control within the basin. Once the surrounding area is stabilized this filter must be removed or a revision to the drainage plan must be installed.” My concern with that is, is, you know, if I’m going to say I’m going to have a schedule here, and John wants a schedule, I mean, stabilization is when we have those yards sodded. So, you know, we’re pushing late fall right now for that. It just depends, so, you know, all of a sudden we’re making a promise, and I see a promise that can’t be kept because of—

Jeff Mueller: I think one like that particular one, I mean, that’s, the schedule is going to be theirs once everything is constructed, the lots are built, and, you know, and everything is stabilized. I’m not asking for an unreasonable schedule on something like that. I mean, or, if you want to leave that rock filter in there, you can, but just submit a drainage plan to that effect.

Bill Jagoe: Well, we wouldn’t, I can’t answer that for the developer. I just know, you know, when we’re working on this schedule, and there’s an item on there that’s kind of—

Jeff Mueller: I think that, I think that the schedule, we’re asking for a schedule from the developer. The only thing we’re asking of you is this right there. This condition right here.

Bill Jagoe: Uh-huh, which condition, four?

Jeff Mueller: Number four.

Bill Jagoe: Well, actually—

Jeff Mueller: That’s the one we talked about when we were in the field Monday. Just before you finish those houses that we get those emergency swales in, down at the end of Arden Court—
Bill Jagoe: Sure.

Jeff Mueller: -- you’ve got the houses, all we were saying is, when you guys finish your houses, before you get to move in them, have the swales constructed.

Bill Jagoe: I probably have actually problems committing to that today, because I don’t know the depth of that current storm sewer to see if you’ve got the proper coverage once you—

Jeff Mueller: We’re just talking about a swale above—

Bill Jagoe: I know, yeah, we’re coming off the curve there. I just went back and looked at the checklist and the site today. I actually had some concerns on the end of both of those courts with, you know, being a homebuilding or a developing problem.

Commissioner Kiefer: Bill, would it be better for us to postpone this until you get more clarification.

Bill Jagoe: No, I don’t think you need to postpone it, but, you know, it’s just, you know, when we’re sitting here giving a schedule and, you know, or saying we’re going to give him a schedule. The developer can go give a schedule, and the builder’s schedule might be totally different than the developer’s. So, they don’t, you know, we’ve been out there doing all kinds of work. Some of these are already complete since our meeting on Monday, you know.

Commissioner Ungethiem: Jeff—

Commissioner Kiefer: I think it’s only number four for you.

Marco DeLucio: Maybe we can clear this up, because number four basically says, that doesn’t have to be met before certificate of occupancy can be issued?

Bill Jagoe: That’s what it says.

Marco DeLucio: So, if the lots don’t sell, or there’s no houses built on that lot, the schedule on that one would be completion of the home.

Jeff Mueller: Yeah, that’s the schedule.

Commissioner Ungethiem: Yeah.

Marco DeLucio: I think that’s what they’re asking for.

Jeff Mueller: Yeah, the schedule there is just whenever the home is completed, that’s the schedule.

Bill Jagoe: Right.

Jeff Mueller: It doesn’t have to be September 1st or December 1st, it’s when those two homes are completed, that’s the schedule.

Bill Jagoe: Well, when I look at a schedule, I look at specific dates generally.

Jeff Mueller: Well, I understand—

Bill Jagoe: Whenever you guys were talking this way, I’m like—

Commissioner Ungethiem: Jeff, you would accept 30 days after the house is complete as an item for the, or as a date?

Jeff Mueller: Well, or the certificate of occupancy, which means as soon as he’s got the house done, as long as he’s got the ditch done, we’re good.

Commissioner Ungethiem: Okay.

Jeff Mueller: That’s all.

Bill Jagoe: Alright, thank you.
Jeff Mueller: Yeah, we’re not looking for a specific date on that one. This is one of those that eats us alive. John will tell you that too. They don’t get built, and we even talked to this about Mr. Jagoe, not saying that he’s the one that’s doing it, but we’ve had them where they don’t build them, they forget about it, an air conditioner is in them, and all of a sudden we don’t have our swales. So, we just want to make sure our swales are in on those two locations. So, yeah, the deadline would be when the houses are complete.

Commissioner Kiefer: Okay, I think we’re waiting on a second on the motion.

Commissioner Ungethiem: I’ll second the motion, and I just want to clarify that these are lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and the three wooded lots, 38, 39 and 40. Is that correct, Jeff?

Jeff Mueller: Yes.

Commissioner Ungethiem: Okay. I second that motion.

President Melcher: Roll call please.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes, and that means yes.

Madelyn Grayson: Commissioner Ungethiem?

Commissioner Ungethiem: Yes, and yes.

Madelyn Grayson: President Melcher?

President Melcher: We’re back to Roberts Rules, we just need one yes. It passes 3-0.

(Motion passes 3-0 to Release Lots on Section IV.)

Adjournment

President Melcher: Any other business to come before the Drainage Board?

Commissioner Kiefer: I move to adjourn.

Commissioner Ungethiem: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion passes 3-0)

President Melcher: We are adjourned. Thank you.

(The meeting was adjourned at 4:48 p.m.

Those in Attendance:

Stephen Melcher
Jeff Mueller
John Stoll
Marco DeLucio
Carolyn Carneal
Members of Media

Joe Kiefer
Joe Harrison, Jr.
Jim Johnson
Ted Ziemer IV
Maurice Dillender

Bruce Ungethiem
Madelyn Grayson
Jeff Stemaly
Barbara Bolin
Others Unidentified
VANDERBURGH COUNTY DRAINAGE BOARD

_______________________________
Stephen Melcher, President

_______________________________
Joe Kiefer, Vice President

_______________________________
Bruce Ungethiem, Member

(Recorded and transcribed by Madelyn Grayson.)