The Vanderburgh County Drainage Board met in session this 1st day of November, 2016 at 4:59 p.m. in Room 301 of the Civic Center Complex with President Stephen Melcher presiding.

**Call to Order**

President Melcher: I think we’ll go ahead and get started, even though Joe’s not here.

**Pledge of Allegiance**

(The Pledge of Allegiance was given.)

**Approval of the October 18, 2016 Drainage Board Meeting Minutes**

President Melcher: We need approval of the previous minutes.

Commissioner Ungethiem: I move for approval of the minutes.

President Melcher: I will second. All in favor say aye.

Commissioner Ungethiem: Aye.

President Melcher: Aye. It passes.

(Motion approved 2-0)

**Drainage Plan Revision: Cambridge: Section 1: Lot 21**

President Melcher: Drainage plan revision, Cambridge, Section one, lot 21.

Jeff Mueller: This is a minor revision to the approved drainage plan for this subdivision. Lot 21 has been developed different than what was originally approved, and additional storm sewers have been installed. The revision that has been submitted is for the storm sewer system that has been installed and includes the calculations verifying that the pipes have the necessary capacity to carry the design flows. Now, even though this is a single lot, the plan is that there will be a series of duplexes put on there. The original plan actually had the drive coming in the other way, but this drive is constructed. There’s some storm sewer system installed, but that was never approved by the Drainage Board. So, that’s what you’re approving is just these minor revisions. The drainage revision was submitted on October 26, 2016. The plan that is requested to be approved consists of the submitted document with a receipt date of October 26, 2016, along with drawings 1 of 2, and 2 of 2 with the same receipt date. As this was for some minor changes and no additional responses were required on the submittal, no review document was generated. The revision to the drainage plan was reviewed by the County Surveyor and found to be in compliance with Vanderburgh County’s drainage code, and therefore is being submitted to the Drainage Board for approval, under Section 13.04.090. Pretty simple.

President Melcher: Any questions/comments? I don’t think there’s any public. I will take a motion.

Commissioner Ungethiem: Motion to approve.

Commissioner Kiefer: What is your recommendation?

Jeff Mueller: I’ve reviewed, and it’s….. you’re not going to get me to say that, Joe. You keep trying.
President Melcher: We have a motion.

Commissioner Kiefer: Okay, then I'll second it.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion passes 3-0)

President Melcher: Thank you.

Spaetti-Meyer Drainage Obstruction Petition (Continued from 10/18/16)

Jeff Mueller: Okay, next is the obstruction petition on the Spaetti-Meyer. This was continued from October 18, 2016. Since the last meeting, Mr. Meyer has done some drainage work. I talked to Mr. Spaetti today, and he still has issues, though many of those do not actually involve an obstruction. He was concerned on whether the work that was done by Mr. Meyer is going to solve the problem or not. The way we left it was, what I suggested to him is we're supposed to have some rain come up. Let's see if after it rains if he's still got water blocked, or if the water is not blocked, then, you know, then we can move on. If the water is blocked or he's not happy, then he can continue with the petition, but my advice is right now that we continue this for another two weeks, we hopefully can get a rain and we can get out there and take a look at it and see that it's either flowing or not flowing. Some of his other issues, I've told him, they are not issues that deal with the obstruction petition process. So, it's a matter of if the water is flowing, then let's do away with the petition. So, that would be my recommendation on that is to table it for another two weeks.

President Melcher: So, we're going to table it?

Jeff Mueller: That would be my recommendation, yes.

President Melcher: Okay.

Commissioner Kiefer: So, you do have a recommendation.

Jeff Mueller: On that one I do, yes.

Commissioner Kiefer: Then I'll make a motion to approve his recommendation to postpone it.

Joe Harrison, Jr.: We don't need to do anything.

Commissioner Kiefer: Okay.

Jeff Mueller: Alright.

Commissioner Ungethiem: We'll just delay it for two weeks.

Jeff Mueller: Okay.

Violation Letter: Blue Heron Estates

Jeff Mueller: Alright, next on the agenda is the Blue Heron and Trilogy North. Based upon the letters that were sent to both parties, Trilogy North, the time period for that was up on October 24th, and Blue Heron was up on October 25th. On October 26th, John Stoll, the County Engineer, and myself conducted inspections as both sites, which I would like to review with you. We also created a short inspection document for each site, that's included in your review. So, what I gave you was some 11" X 17" sheets of these two drawings right here, that might make it easier for you to follow along on what we're doing here. Okay? So, the first slide is what I'm going to call slide four, shows where a swale has been re-constructed, and you can see it's right here. There is still some standing water in this particular swale. The fifth slide shows a completed swale behind lots nine and ten. Okay? That's what we like them to look like. The slide six shows where there's
being work that is being done, between Palmetto and Bombay Circles, but it’s not completed yet. The next slide, this one and the slide I’m going to show you is actually taken from this way looking the other way, but this is a swale along the east boundary of the subdivision that’s been reconstructed and revegetated. There’s that same, so we were down there before, there’s a concrete liner here and there’s a little bit of water, kind of a, probably just from some of this little material here, debris, but this is, this swale here looks in pretty good shape. Okay, next we have a swale, on the next two one’s, that’s on work between Bombay and Osprey Circle. This work hasn’t been done yet, but this gives you a feel for some problems that people have been experiencing out in this particular area. You can see where the water is not draining. You can see some concrete blocks up here, where they’re trying to block some of the drainage coming in, and this particular fence here is right along the edge of the property line within the drainage easement. The next slide you’re going to see, we’re actually standing right here, and you can see where there’s supposed to be a swale here, and somebody with a lot of energy, a lot more than mine, came through and temporarily dug a hand ditch right there. So, this is a swale that still has work to be done.

Commissioner Kiefer: Is that ditch now controlled by the U.S. Corps of Engineers?

Jeff Mueller: It’s not forested, so I don’t know if it would be (Inaudible) or not. You know, there’s three criteria; soil, hydrology and vegetation. So, those are the three criteria, the magic criteria. Okay? This is lot 48, this is where a house was constructed too close to the existing storm sewer. This is going to have to be addressed somehow. This is where we have a lack of a swale on lots 56 and 57. Actually, I’m standing where this whole portion of the fence needs to be removed, because a swale needs to come down through here. This is on the other side of that fenced property, lots 58 and 59. The drainage is, the easement comes through here, although it’s got some patio and stuff there, the house is actually a little bit located in the drainage easement. So, we’ve got the drainage for lots 58 through 61 are going to have to be addressed in the future. So, that’s kind of what we have going on out there right now. As I stated, the drainage plan revision was submitted on October 19th. Also in your packet, if you’ll look, you’ve got an eight page, well, it’s four pages double-sided red, and you can see those are our responses that we submitted back that need to be addressed. It’s a pretty sizable list of items that need to come back to us, and the punch list. It’s my understanding that, you know, they’re going to be trying to shoot to get that back to us November 15th, but there’s a long list of work to be done there. I also prepared a letter for you all regarding the leveling of fines, since we’ve passed the 30-day period. It’s up to your discretion on what you want to do with that. I know there’s some folks here from the subdivision, the developer that probably would like to address you on that situation. I don’t know how you want to proceed.

President Melcher: Before we go back there, can we go back one slide?

Jeff Mueller: Yeah.

President Melcher: That’s the fence where you’re standing?

Jeff Mueller: Uh-huh.

President Melcher: Did the homeowner put that fence up? Or did the builder put that fence up?

Jeff Mueller: The homeowner put the fence up.

President Melcher: So, they know they have to remove that section?

Jeff Mueller: I don’t know. That’s something the developer has to work with with the homeowner. I don’t know if they’ve approached them or not.

President Melcher: Alright.

Jeff Mueller: Okay.

President Melcher: Thank you.

Jeff Mueller: Do you guys got something you want to say? Talk about, what?
Chris Wischer: Good afternoon. Chris Wischer with the Bamberger firm, and Jim Morley, Jr. here. We’ve been working with the developer for Blue Heron, really over the last year or so to try to position this to get it into where these issues can be resolved and approved. Jim knows more about the details of the drainage plan. I can tell you that, you know, I’ve worked with your attorney, Joe Harrison, Jr., and we’ve met multiple times with, or discussed and met at least once with John and Jeff and gone over the drainage plan. Our goal, this is a challenge, because this is a ten-year-old subdivision, there are existing homes and changes have been made by homeowners. As you pointed out, Mr. Melcher, homeowners have made their own improvements, and so we have, we spent the last period of time with Morley and Associates essentially resurveying the entire property and coming up with a plan for how to address all of the issues. In some cases, we can go by the original approved drainage plan, and in some cases we made need to make some adjustment, given change in circumstances. That revised plan has been completed and submitted, and responses were received. We actually met today to go over those and try and get this in position where it can be considered by you and early as possible. The contractor, they’ve already got a contractor out doing the work that’s in the amended drainage plan. To some extent, there’s some risk involved there, because if you don’t approve the changes, we may have to redo some of that work, but in light of time sensitivity, it seemed better to go out and go ahead and get some work done. So, that's been done. I worked with your staff too, we’ve got a letter agreement in place, and there is money in our trust account that’s set aside specifically for drainage improvements to ensure the county give additional security that these drainage improvements will be done to the county's satisfaction, and to bring this in compliance with the drainage code, and to receive your approval. So, I think, over the last year, I know Morley’s been working a long time to try to get the drainage plan together, to do the resurveying. That’s done, the contractor is out in the field. I think we’re really pushing to try to get this resolved. We’re here to answer any questions you have, but hope that you would forego any fines or penalties or anything like that until we have an opportunity to present the plan and get those improvements done. The idea would be to get the amended drainage plan approved, and then following that, when all of the improvements are made, to get those inspected and approved, and this be done. So, that’s what we’re working on. Anything you want to add?

Jim Morley, Jr: If you want, it's your all's pleasure, but there were a couple of pictures on here, like this one, where there’s some improvements have yet to be made. I would be happy to go through those pictures and say what’s going to happen there, it just hasn’t happened yet. The contractor basically started at the south portion of the subdivision, and for essence is working his way north. For example, this picture here is about as far north in the sub as you get. So, he just hasn’t gotten here yet.

Commissioner Kiefer: Jim, I don’t know if you’ve seen this, but his draft letter that we have, there are a list of items that would need to be done in order to be considered complete. Could you share that with him, so that, way, because really that’s what I’m concerned about is the one, two, three, four, five bullet points that need to be addressed.

Jeff Mueller: Are you talking about the inspection report?

Commissioner Kiefer: The letter that would be dated November 1, 2016. There’s five bullet points.

Joe Harrison, Jr.: You can take mine.

Commissioner Kiefer: Here he goes. If you look at that, there’s five bullet points, Jim, and I guess this is what would need to be addressed. Right, Jeff, those five bullet points? All physical work is completed, any vegetation is established and is in stable condition, you know.

Jeff Mueller: Those five bullet points, those are the same five bullet points that were in the letter that we sent about 30 days ago.

Commissioner Kiefer: Yeah, so, those are the same bullet points that were sent 30 days ago. So, I guess, the question is, have those, what’s the status of each one of those bullet points?
Chris Wischer: As I read those five, they’re all in process. I mean, that’s part of what we, this is our plan. In essence, right, I mean, do you see anything in there that we’re not doing?

Jim Morley, Jr: The only one, the third bullet point it talked about an encroachment agreement for landscaping, and from previous conversation I thought if it was just landscaping, it didn’t need an encroachment agreement.

Jeff Mueller: Well, I think what we’re talking about on landscaping would be like the landscaping along the pond.

Jim Morley, Jr: Do you mean retaining walls?

Jeff Mueller: Yeah, the retaining walls.

Jim Morley, Jr: Oh, okay. I agree with that, structures.

Commissioner Kiefer: See, I think Chris made a good point, this is a ten-year-old subdivision. So, I guess, at this point, you know, this has been going on for ten years the, right?

Chris Wischer: It’s been in a state of, I won’t try to tell you that it’s been going on and efforts to remedy it for ten years. My experience, my involvement in it is about a year, or a year and a half.

Commissioner Kiefer: Right.

Chris Wischer: In the time I’ve been involved, it’s, I mean, obviously, it’s been an increase, this has been the effort, and it’s a monumental undertaking. It’s going to take time, but we’re here and we’re getting it done.

Commissioner Kiefer: Well, like is there a drop dead date? Can you say, hey, by November 15th this will be all completed? Or, hey, this is another six-month project, this is a year project? I mean, how long does it take to get this completed to where you could give, with some assuredness, that, hey, all of these items will be completed.

Jim Morley, Jr: So, if I can, to use these pictures here, I’ve got to put my glasses on, so, a little bit of it is it’s a little bit of a loaded question. For example, like through here, in the yards that were not sodded yards and did not have irrigation systems, when they planted it, they put in, they put down straw blankets, but for it to be finished, to meet number one, it has to be fully vegetated. Part of that depends on how fast the grass grows. So, the work may physically be done, that work is physically, I don’t know if there’s a little abstaining order that we can look at that, but that work, in essence, is done short of if there’s a tweak on the water, but it’s not vegetated. So, I don’t think the county is going to accept it until it’s vegetated, which may not come until April or June, you know, but the work could maybe be physically done this month or next month. So, my guess is unless you all are going to accept it before the vegetation is there, my guess is there won’t be a final acceptance until next year in June. The, I mean, but in other places, like here, where those lawns all had irrigation systems, they went through and sodded all of that, because irrigation systems out there will keep that sod alive, but for any of you all that have put sod down before, I mean, if you don’t water it just tremendously, it all just dies. So, and the yards that didn’t have the irrigation systems, there wasn’t much use in trying to put sod down there and just watch it die. But, this is, this is them working from front to back, you can see they’re working there. That, this work here they did about, I think about a year ago or so. This ditch through here is, it’s on the amended plan, it gets a French drain. Part of the challenge they have out there, there’s a lot of fall in those back yards, but those irrigation systems basically run around the clock, it seems like. So, those backyards are, it’s like they’re getting rained on every day. So, that grass, I mean, they have beautiful grass lawns, but where that water is coming together, even when it’s on a slope that well exceeds the county minimum standard, that water is getting kind of, I mean, it’s literally like water sitting on the side of a hill. So, in this situation, on this one here, they’re going beyond just a regular swale like was on the original plan, and putting a French drain all the way up that back line, which is considerably more expensive than just a swale to try to drain it out, because with the excessive rain, or I’ll say irrigation that they get off of those sprinkler systems. So, this one they’ve not completed yet. This is the next east-
west swale going north. To be honest with you, this one I would prefer they complete after it’s approved by the Drainage Board, to the extent that if they have to tweak something on a regular swale, that’s not a huge expenditure, but if they put this entire French drain in and then it was decided that was not acceptable, that’s a very large expenditure to put that French drain in. So, it would be my recommendation to them to not do that until there is an approved drainage plan. You know, but that’s all the same, this one here’s a challenge, just to be honest with you. The house got built too close. It wasn’t built by the developers, and by the time it was too close, or by the time it was built it was too late to notice that it was too close. So, we’ll work through that. That swale, or that fence, I believe they’ve talked with that neighbor, and they’re going to take down that last 12’ of fence. I believe—

Alan Bosma: 13’.

Jim Morley, Jr: 13’, I believe the developer, you guys are taking it down, is that correct?

Alan Bosma: I’ve got a fence guy taking it down.

Jim Morley, Jr: Yeah, so the developer is taking it upon themselves to take some of these fences down after they talk to the neighbors, because none of the neighbors are volunteering to say, hey, I put the fence in the easement and I wasn’t supposed to, you know, and so the developer is now coming in and making up for some ails that were built by other people. But, that fence is coming, that last 13’ comes down to get it outside the drainage easement, and then a swale gets put up all the way through there. This, Mr. Aibe that lives here, he doesn’t, I mean, there used to be a swale here a long time ago, we had as-built drawings from where there was a swale there eight years ago. There’s sure no swale left there, you know, I mean, he’s heavily landscaped his back yard, and he doesn’t want a swale there. He wants to be left alone. The guy upstream, there’s that yellow house right there upstream of him, he’s got some kind of AstroTurf lawn thing in his back yard, and he doesn’t want a swale put in his backyard either. They all just want to be left alone. So, we’re working through trying to get them to sign off on something that says, leave us alone, we don’t want a swale there. We’ve prepared the site plan to file to vacate a portion of the drainage easement, because his house sits in the drainage easement. Again, I don’t think, the developers didn’t build that house, and by the time it was built, it was done. So, I mean, we’re definitely making headway, but it’s kind of like remodeling a house, it’s, I mean, it’s not, you know, you can draw up a set of building plans for a brand new house, that’s real easy to understand, but when you tear into an old house that’s been there for ten years and it’s got sprinkler lines all over the place and retaining walls and fences and landscaping, I mean, it’s a lot bigger task. The fella they’ve got out there, names Marcus, I’ve worked with him, he’s got a pipe laser out there that he’s using to set grades on all of his swales. I think he’s done a bang up job. I was out there on Friday, met with him on a couple other swales. I told him if he’s not careful, we’re going to consider him a professional swale contractor and hire him to come in and fix all of these subdivisions. So, I think he’s doing a great job. I really do. Hats off to him, I mean, he’s balancing working in people’s backyards that haven’t had anybody in them for ten years, you know, and moving sprinkler heads and taking fences down and dealing with landscaping. I mean, it’s a challenge. So, I think he’s doing a great job, and I feel like the developer is making some good headway. I think it’s worth noting, you know, this project was finished in ’06, at the same time it was finished was about the same time Green River Road was closed, or there was a lot of construction on Green River Road, that section of Green River Road was being put in. So, lot sales didn’t exactly jump off the page when the thing opened. Then in ’08 the recession came on lot sales and income just went through the floor, and we’re really just now seeing a turnaround in that. I’m not making excuses, but I do want to say that, yes, it’s a ten-year period, but at least eight years of them were in a bad economic situation for this developer and the growth of this subdivision.

Chris Wischer: And, I’ll say this, I mean, as you can see, he’s paying the price, the developer, for that delay. I mean, it’s obviously better to get on it early, because if you come back in ten years later and you have to deal with situations like this, I mean, he doesn’t have control over where somebody builds their house or puts their landscaping, if they put it in the easement, but because we don’t have an approved and signed off on plan that’s been accepted, we’re kind of stuck with dealing with that situation. So, that’s
what we’re trying to do. We’ve given notice to everyone out there in the subdivision that work is going to be done in the subdivision. If they have any concerns about the work that’s being done, to give the developer a call. We notified every person who has a fence that needs to be moved that the fence needs to be moved and that the developer would be agreeable to move it on their own, on his nickel. Some question about his legal ability to go move it, if they don’t want it moved. It’s in an easement, but who has the right to go into that easement and move a fence, according to the plat language. I communicated back and forth a little bit with Joe on that issue. So, there’s some challenges there, as far as getting every i dotted and t crossed. We’re narrowing and narrowing and narrowing until we get this thing done. We would just like a little leeway at this moment in time to finish it up.

Commissioner Ungethiem: Let me see if I can understand this. This development was submitted what, in 2004-2003? You said it was completed in 2006?

Chris Wischer: ’06, I think that’s right.

Commissioner Ungethiem: The drainage plan was approved, was submitted and approved along that same timeline? The drainage plan was never, to my understanding, was never completed on this particular development. The final drainage plan was never approved and signed off. If we were in a situation where in 2005-2006 the approved drainage plan was signed off, done and approved, we wouldn’t be here right now.

Chris Wischer: Right, correct.

Commissioner Ungethiem: That’s the lesson to be learned. If we would do the drainage plan and complete the drainage plan and get it signed off from the Surveyor’s Office before significant building was done in that subdivision, we wouldn’t be here discussing this right now. To me, that’s the lesson to be learned. The longer we delay it, the more you allow developers to come in, build properties, put fences in, do everything and you don’t have a drainage plan complete, you open yourself up to a lot of liability. That’s where we’re at at this point in time. Now, what you’re asking us to do is to look the other way on that liability. It’s been ten years. There’s been sufficient time, from 2006 to now, to get that drainage plan finished, approved and to the Surveyor’s Office so it can be signed off. I don’t have any sympathy for somebody who’s waited ten years to try to get this thing approved and only moved when they found a letter from the Surveyor’s Office and the County Commissioners saying we’re going to start fining you $100 a day if you don’t get this completed. That’s my take on it. It has been way too long, and not enough attention has been put on it for the last ten years, and as far as I’m concerned, the $100 a day fine is the only way we get this to move forward to completion, because if we didn’t, it would be another ten years and we would still be standing here talking about this.

Commissioner Kiefer: I think what brought this to our attention was, I had a young family that was moving in to Evansville call me and say, hey, look we just bought this lot out at Blue Heron, but we can’t build on it. We go down to get a permit and find out we can’t build on it, because of this drainage plan. So, you know, then we were in a pickle because here we had this couple come in from out of town, spend whatever amount of money to buy a lot and then, you know, already had signed a contract with a builder, and they couldn’t build. So, you know, we had to do a few things, jump through a few hoops, make some exceptions for this out of town person, but we don’t want to do that every time somebody buys a lot and them comes to us and says, oops we can’t build. So, that’s what really got this thing started, you know, brought it to a head was having that situation. Which we don’t want to be put in that situation where—

Chris Wischer: Right.

Commissioner Kiefer: somebody, you know, hey, welcome to our community, by the way, you can’t build on this lot.

Chris Wischer: That lot was sold in May, I think, of ’15, it was over a year and a half ago. It was September of last year, I think, that we met initially with and were working with John and Jeff and Joe, when Alan and Ron here got Morley, you know, Morley was involved in getting this resurveyed. I mean, the entire subdivision, you know, like you say, it’s been a long time. So it had to be resurveyed to find out what’s out there, redo topo’s because grading had been done. The circumstances were completely different than it
was. So, this summer that work got completed, and they provided Alan with what they believed needed to be done. That lot, there’s still three lots where there’s a hold, Alan can’t, won’t sell a lot, can’t get a building permit on three lots out there. I’m holding, I wish I could remember, is it $20,000.

Alan Bosma: $20,000.

Chris Wischer: In my trust account that is, per a letter agreement with the county, that will only be used for these drainage, if Alan doesn’t do it, that money is there to do the, to provide for the drainage, it gives you security. There’s also the letter of credit that’s already out there. I’m not making any excuses for the past behavior, what I am saying is that this is not just today that he’s being doing this. We’ve had the contractor out there, but it’s a race to try to get the work done. We believe, most if not all of the actual digging and work will be done by the time we come here for your next meeting to review the amended drainage plan that we’ve submitted and received response on. So, I guess, what I would ask is if you could continue the issue of the fines until the 15th when we come back and talk about the amended drainage plan, see where we are then. You’ll have the amended drainage plan, we will have hopefully worked out our issues with John, most of the work, if not all of the work will be done to the extent we can control, and will have narrowed the issues and you can judge us on that behavior. We’re not asking you to look the other way. I think there’s enough pressure on these folks to get this thing done that we’re moving and we’re not going to stop. So, that’s what I would ask, if you could just forego that for another couple of weeks and give us a chance to come in here and show you a more complete picture of what we’re doing.

Commissioner Kiefer: I’m okay to wait until the 15th, but I don’t know that I would want to wait, you know, any further than that, if we can’t come back with something.

Commissioner Ungethiem: You’re going to come back on the 15th with an amended drainage plan?

Chris Wischer: It’s already been submitted.

Commissioner Ungethiem: Submitted and approved?

Chris Wischer: It’s already been submitted, and with responses back on questions that Jeff has.

Jeff Mueller: That’s that page in your packet.

Chris Wischer: So, Morley and Associates is working through those responses, and we’re working with the contractor to address, you know, make sure that what we do out there is kosher with John and Jeff, to make sure that Jeff’s comfortable with what’s being done. So, that’s, like the French drain, for example, that’s a bigger item, but a lot of these items, you know, we’re out there doing the work, and hopefully it will get approved. We met, within the last month, it was a month ago, I think, over at Jeff’s office, all of us and John and Jeff, and went through the plan, point by point and discussed what we had in mind. So, I’ve been involved, like I said, for a year, and there’s been great progress. We think we’re going to get there, we know we’re going to get there, we have to get there, there’s not a, there’s too much money out there on the line to not get there and get it over with. That’s what Jim and I, or Jim and I are hired to do, is get this thing over the finish line. So, we intend to do that.

President Melcher: Are you still selling the lots out there?

Joe Harrison, Jr.: No.

Chris Wischer: He only owns three lots at this point, and those lots are not for sale.

Jeff Mueller: I would like to make a comment, a couple of comments. First of all, I’ve gotten call from a guy a couple of times on lot 58. The guy is like, this lot right here, this guy calls me and he says, he’s looking at buying it and he’s talked to Mrs. Bosma and everything is going to be cleared up in a couple of weeks, and by the way, can I put a pipe in and all of this. And, I’m like, what’s going on? You know, and I know—

Chris Wischer: Right.
Jeff Mueller: I know, Chris, but, you know, it’s everybody’s always wanting to buy a lot, and it’s like everything’s always going to be cleared up out there. So, I wish the “For Sale” signs would go down and you would quit talking to people.

Alan Bosma: There is no “For Sale” signs.

Jeff Mueller: Well, why am I getting a call from a guy saying he’s going to buy the lot?

Alan Bosma: I don’t know.

Jeff Mueller: I don’t either, but, you know, it gets a little irritating because it puts me and John in the center of this situation. So, I just want to say, I want to go on record with that, but here’s the other points, three things that need to be done out there; first is the physical work, and these guys have done some really nice work on the physical work. I showed you some really nice ditches. I’m hoping that the rest of the ditches like that look good. The second thing is encroachments, and a lot of those encroachments are like the, along the lakes and some things like that, those things are pretty easy. The third thing that we don’t know is when we talk about the different people and they would like to have a variance for this and that, if you’ll look on your sheet, there’s a number of things that say variance requested. So, until we know what the variance is, and that the people are going to accept the variance, that one’s kind of the one big question mark that I have in mind.

As long as the weather stays good, your contractor hits it, you’ll be able to get that work done. The encroachments, as you know, Chris, are paperwork.

Chris Wischer: Right.

Jeff Mueller: But, the variance piece is the piece that, well, what happens if you’ve got four people you need a variance from, and three of them are fine and the fourth guy says, no, I don’t want that. So, then we have to go back to square one and go back to that other issue. So, to answer the question about, I oversimplified, but there are three things going on there, and that’s what they are. Okay? But, John and I have gotten a lot of complaints out of this subdivision. Some people are now saying, well, I’m glad to see some work being done, you know, we all are to tell you the truth. The only other comment I had is when we talk about, and I don’t know how this subdivision was set up, but a lot of subdivisions have architectural committees that sometimes is the developer, and I don’t understand how people build houses and the developer is not looking over the footprint and saying, whoa, wait a minute, you can’t do that. Or, you can’t put a double wide trailer on my lot that, you know, is supposed to $500,000 homes, you know. I mean, that’s part of the developer’s job is to drive through the subdivision and look to see what’s being done and to make sure that the individual builders are adhering to the principals of that. That’s my feeling. It’s not to just divvy up lots, sell them and go on. You have a responsibility as the developer. So, that’s all of my comments on the things, and, you know, as far as, you know, what we want to do, I want to see progress. I am glad to see we are seeing progress, we are getting a few people out there that are starting to be a little more comfortable with things, but we do have to get things done out there.

Commissioner Kiefer: I definitely think it’s a good thing that they’ve hired Chris and Jim here to do work. That’s a positive step.

Jeff Mueller: Yes.

Chris Wischer: And, I want to say one thing, because we definitely, and the instructions are for the contractor to get out there and get this work done, and time is of the essence, and we all understand that, but at the same time it’s got to be done right. We do have some challenging issues, as Jeff said, where we’re trying, where we think we’ve got a plan, but if everybody doesn’t sign off on it, we’ve got to figure out what to do. As you all know, on drainage, you fix one problem it can create another problem, and we’ve got to be careful. So, I guess my point is, at this point the $100 a day I can understand why you would feel compelled to do that, but I don’t know that it’s going to make our job any easier or any quicker to get done. If we’ve got to meet with property owners and get these agreements, we just have to get them done, and we have to do it on their time. We have to provide them the agreement, we have to allow them time to look at it and review it, they want their lawyer to look at it. I mean, we can’t, I’m not going to go out and try to jam this down people’s throat. We’ve got to handle it correctly. So, I’m asking for a little time, now that we’re here and we’re doing this, to give us a little time to breathe on it and get it done
right, and as fast as we possibly can. So, if we could reconvene on the 15th and take a
look at where we are, we'll have the drainage plan will have been fully reviewed and
presented to you, and that will be, I think, a better time to see where we are.

Commissioner Ungethiem: By the 15th will we have a revised drainage plan that is
approved?

Joe Harrison, Jr.: Well, it's got to get approved by you guys.

Commissioner Ungethiem: Well, I know, but ready for approval.

Jeff Mueller: I don't know, because there's a long laundry list of things.

Joe Harrison, Jr.: They're working on it.

Jim Morley, Jr: I mean, most of the, and you can tell me if you disagree, most of the
things on the comments sheet, most them, in my opinion, are more paperwork issues
than they are design issues. I don't think there were really many comments that the design
didn't work or anything like that. They were more paperwork issues. So, given that, I feel
good that the contractor is still out there working, still trying to get this stuff done before
the planting season is gone. I mean, it's pretty close to the end of it, so, everyday counts
now. A lot of it is paperwork, and a good chunk of it, to be honest with you, is legal
paperwork, filing, you know, getting the encroachment agreements and variances and
stuff like that. So, there's, I would dare to say probably over half of that list is more legalese
than it is engineerese, you know, and so that's what we're working through now. Am I
correct in saying from a design standpoint, most of its pretty square?

Jeff Mueller: Yeah, I don't think there's a lot of design issues. It's just a matter of, you
know, first of all, it's two weeks away, so, you know, and it took us awhile to review it, and
you've had it for what, three or four days?

Jim Morley, Jr: Yeah, and we've been working on it from the day we got the markup,
we've been working on it.

Jeff Mueller: Yeah, I know, because Jeremy called me right after you got it.

Jim Morley, Jr: Yeah.

Jeff Mueller: One other comment too, is that they're going to be sending a notice out to
the neighborhood. We might have a bunch of people that will be here, we might have a
bunch of people saying, they got back and got my swale fixed, I'm happy, so I won't show
up. So, I don't know, but they are required to do a notice. So, they might have something
that looks pretty good too, and then we might have some people come in here and say,
well, I’ve got a problem that wasn’t addressed. So, you know, it’s hard to say what kind of public comment we may or may not have.

President Melcher: We’ll have to handle that at the time.

Jeff Mueller: Yes.

Chris Wischer: Right.

President Melcher: Right now we can only handle what we know.

Jeff Mueller: Right, and I will tell you that everything that we have, so far we have put on our website so that people can look.

President Melcher: Okay.

Jeff Mueller: And see things, you know, and we have been in contact with, for example, the gentleman that was here at the last meeting, you know, he was wanting to know the status of it, and I said, well, we’ve still got to get a pipe design for that, you know, and some things like that. So, you know, like I said, we may or may not have a room full of people. Everybody may be saying it’s, hey, I don’t have standing water in my backyard anymore, that’s all I wanted.

Chris Wischer: I agree with Jeff. We will learn a lot. Like I said, we’ve put notices, we’ve given notice to everyone out there that the work’s being done and if they have any issues to contact the developer. To my knowledge he’s not received any response, but that doesn’t mean there won’t be people that come to the meeting. We may learn that we have those concerns. So, again, we’ll know more on the 15th, and I’m only asking that you, that we get to move to the 15th and, I’ve seen Jim’s rates, it’s costing Alan and Ron more than $100 a day.

Commissioner Kiefer: Okay, well, I’m okay waiting till the 15th, but at that point, I’m a full supporter of our County Surveyor. He does a great job, and at that point, I’m willing to put some teeth into it. If, you know, here’s the bottom line is, if we do charge $100 a day, we also have the right at a later date, if we’re satisfied with what you guys have done, to waive that, if we’re satisfied.

Chris Wischer: Right.

Commissioner Kiefer: So, keep in mind, you know, if we did do that, we also have the same ability to waive it later, but, we, right now we feel like at some point we’ve got to put some teeth into it, and the fines are a way to put some teeth into it. That’s my feeling. I’m glad to wait until the 15th, and then start the clock at that point if we’re not happy.

President Melcher: I’m ready to wait until the 15th, but I’m not as lenient as Joe, but don’t take that as we are going to waive it.

Chris Wischer: I agree.

President Melcher: You know, because we’re going to do it if you don’t come up with a plan. I mean, we’ve made that decision before we sent the first letter.

Chris Wischer: Right.

President Melcher: So, we’re not going to renege on our decisions, and we do have support John and Jeff.

Chris Wischer: Our challenge then is to come in here on the 15th with a plan, and a schedule of benchmarks that we intend to hit, and meet those five bullet points and when those will be done.

President Melcher: I would make that plan doable for you, because don’t give us something that might not happen.

Chris Wischer: Right.

President Melcher: Give us something you know you can do.
Chris Wischer: That goes to my earlier point, I mean, we want to do it right. So, to Jim’s point about the vegetation, if we’re not going to be able to get grass to grow, we’ll tell you that that’s going to have to happen in the spring.

Commissioner Ungethiem: Make that separate item. You complete everything except vegetation and make the vegetation a separate item, but you could call it substantially complete, except for vegetation. We understand you can’t grow grass in January.

Chris Wischer: Sure.

Commissioner Ungethiem: But, we’ve got to get this done.

Chris Wischer: We’ll be as detailed as we absolutely can about what we’re going to do, when we’re going to do it, and that you have something to hold us to.

Joe Harrison, Jr.: I would really encourage you to get the paperwork on the encroachment agreements and the variance issues on the individual lots.

Chris Wischer: Sure.

Joe Harrison, Jr.: As soon as you can.

Chris Wischer: Okay.

Jim Morley, Jr: Can I ask a question relative to that? We can prepare all of those documents, do you want those to be attempted to be signed prior to?

Joe Harrison, Jr.: I think Jeff should probably look at them first. Do you agree?

Jeff Mueller: Well, on the encroachments—

Joe Harrison, Jr.: I don’t care about that.

Jeff Mueller: The encroachments we’ve already looked at, and I think in our response, I mean, we already said there were like five of them that we’re fine with. There was one that we still needed some surveying and a couple of them that we had questions about. Something like that. So, I think on the encroachments—

Joe Harrison, Jr.: It’s the variances.

Jeff Mueller: --now, on the variances though, we don’t know what you’re asking for for a variance, other than you just said here’s the agreement for them to sign. So, we need to see the variances and what you’re requesting before we can say—

Chris Wischer: The waivers?

Jeff Mueller: -- I mean, yeah, the waivers, I’m sorry, yeah.

Chris Wischer: The waivers, that was a good point, it’s something that crossed my mind, but the waiver needs to be specific as to the work that’s being waived, so that later when the work’s not done and the property owner comes back, we’ve got, I mean, you’re exactly right. So, and his office is already putting that information into the waiver document. So, that’s being done.

Jeff Mueller: Well, we need to see the waivers before they’re signed, but the encroachments I think are okay.

Jim Morley, Jr: When you say, and I’m just trying to make sure, because I don’t want to make a misstep here. When you say we, is that your office that says, yeah, the waivers look good? Or, we have approved the waivers.

President Melcher: We go by what he says.

Jeff Mueller: Me and John.

Jim Morley, Jr: Okay.

Commissioner Ungethiem: If you’ve got him satisfied, we’ll be satisfied.
Chris Wischer: When those are prepared we will send them to you to review, the waivers.

Jeff Mueller: And, I think, you know, there’s a prime example, my predecessor, you know, he did some waivers on some pipes, and it was great. It was on a subdivision where the developer wanted to put, do something different than what it was, and Bill made them do a waiver, and I loved it because somebody new moved in the house and they started to change it, and I sent them a letter saying you can’t do that, and, oh by the way, here’s a waiver signed by the previous owner exactly what was going to be back there. The guy then stopped doing what he was going to do. So, to have a waiver and to say that, you know, what we’re doing on this particular lot is we are requesting that the swale only be half the distance, or only six inches deep, or on some of them that we just want sheet flow, to have those and to have them very specific lot by lot is great, because then the next landowner can say, can’t say I didn’t know it, because, yes, it was filed, it was recorded, it’s tied to your deed. You know, so, I think that’s what we want.

Chris Wischer: Right.

President Melcher: As long as we all have the understanding of what we’re doing. We know what we’re doing, we just want to make sure everybody understands.

Chris Wischer: We do. It’s a lot of work. We’re on it.

President Melcher: Okay.

Jeff Mueller: Okay. By the way—

President Melcher: Any final?

Jeff Mueller: I just appreciate what the Board is doing here. I think it’s great. I think the homeowners out in that subdivision are going to be very well pleased. John, I think I speak for John too, we both appreciate your support on this, and, like I said, the homeowners out there are going to appreciate that they get their drainage completed.

Commissioner Kiefer: Okay, thank you guys.

Chris Wischer: Thanks.

Jeff Mueller: Okay.

President Melcher: Okay.

Jeff Mueller: The next one—

President Melcher: Well, before that, do we have to do anything official here?

Joe Harrison, Jr.: No, it’s just—

President Melcher: I was going to say, we already said it.

Joe Harrison, Jr.: Yeah.

President Melcher: Okay.

Jeff Mueller: So, the letter that’s, right now we’re just not signing? And we’ll have one ready with the 15th on it instead?

Joe Harrison, Jr.: Change the date.

Jeff Mueller: I can do that.

Commissioner Kiefer: Put a five in front of it.

Jeff Mueller: Thank goodness for Word documents, electronic documents, right?

Violation Letter: Trilogy North

Jeff Mueller: Okay, let’s talk about Ramsey Development. Okay, this is Trilogy North. This is the basin, you can see they’ve went in and cleared the side, they pour the concrete
ribbon, that's what that it. One thing that bothers me is that this is the basin, that's the outlet pipe, no vegetation and the first time it rains—

Commissioner Ungethiem: Is that Baseline Road on the left?

Jeff Mueller: Baseline would be back here. What, you were looking essentially south.

Commissioner Ungethiem: We're looking south? Okay.

Jeff Mueller: Yeah. So, you know, the next time it rains, it's all going to run out. So, they've done most of the dirt work on the basin, and they have gotten the construction work done, but it's not seeded. This is where the swale is supposed to be, it's staked and that's all that's been done on it. Then, when you don't know what to do with all of your busted up concrete, then you throw it in the basin. So, we've got some concrete debris in there. So, it's been improved, my understanding is the reason they haven't seeded the basin yet, this is what we heard a few weeks ago was they were going to wait until they got all of the work done and then do it. Now, the only thing that bothers me was that John and I were out there on Wednesday or Thursday, John? Anyway, you can see, the sun, it's sunshiny, the dirt's as dry as can be, and there wasn't a piece of dirt moving equipment moving out there. So, yeah, we get a little bit done and then we don't.

Commissioner Ungethiem: Do they say, have any comment as to why they haven't put vegetation or at least seeded this?

Jeff Mueller: Uh-uh, I haven't talked to them.

Commissioner Ungethiem: There's a hundred farmers within five miles of that that have a drill planter that could drill plant winter wheat in there right now.

Jeff Mueller: I agree.

Commissioner Ungethiem: And one of them was at my house yesterday.

Jeff Mueller: You know, they did not get a notice that we, you know, Chris had sent me an email, that's why I responded back to his email about tonight. Ramsey did not get a notice that we were going to talk about this tonight, but I didn't know that we had to send them one.

Joe Harrison, Jr.: No.

Jeff Mueller: I thought we were going to be, you know, so it's up to, I don't know if you want to give them more time, or what's your feeling on this one.

President Melcher: Give who more time?

Jeff Mueller: Huh?

President Melcher: Them more time?

Jeff Mueller: Yeah, I don’t know. I’ve got a letter prepared for you on them as well.

President Melcher: For tonight?

Joe Harrison, Jr.: Yeah.

Jeff Mueller: Yes, for you to sign.

President Melcher: We could vote on that, because obviously they're not doing nothing.

Jeff Mueller: That's what kind of got me, is that we were out there last week—

President Melcher: I mean, they're not doing anything, like you said, and what's all of that debris there. That just takes a tractor, and it's gone.

Jeff Mueller: I know. Mr. Melcher, me and you have both been out in the field and we know what it takes to get some of this stuff done, and some of it isn’t a whole lot. Mr. Ungethiem, you know it as well.

President Melcher: So, we need a motion to approve this one.
Commissioner Kiefer: I have nothing to do with this property here, but I represent the Ramsey’s on some other properties that are unrelated to this one. So, if you guys don’t mind, I’m going to abstain on this, on advice of counsel.

Jeff Mueller: And, I guess, the only other thing is too, we can send them a letter and tell them we’re going to start fining them $100 a day, and if they jump on it and get everything done, we can always—

Commissioner Ungethiem: I would make a motion that we go ahead and send the letter, just to nudge them off of dead center and get them moving.

Jeff Mueller: Right.

Commissioner Ungethiem: You know, we may have another month with the growing season the way this is going. If they get in there now and plant, they could have vegetation there by Thanksgiving.

Jeff Mueller: I agree. Like I said, the two things that bother me; one is the weather and nothing was being done, and two, the outlet pipe—

President Melcher: No, I agree with you.

Jeff Mueller: -- right there, and there’s nothing to, you know, that’s going to go out into a creek, you know.

President Melcher: Okay, I second that motion.

Jeff Mueller: Okay.

President Melcher: All in favor say aye.

Commissioner Ungethiem: Aye.

Commissioner Kiefer: Abstain.

President Melcher: Aye.

(Motion passes 2-0. Commissioner Kiefer abstained.)

Jeff Mueller: Madelyn has got the original for you to sign.

Madelyn Grayson: Don’t pass it to Joe.

President Melcher: Don’t pass it to Joe.

Jeff Mueller: Okay.

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**Ditch Maintenance Claims**

Jeff Mueller: The only other business I have, well, is you have 12 claims, a summary sheet for you for 12 claims totaling $15,565.45. There’s nothing unique about the claims. It’s that time of the year when we’re finishing up a lot of work. So, we’re getting billed for a lot of items.

Commissioner Kiefer: Okay.

Commissioner Ungethiem: I make a motion to approve the ditch maintenance claims.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.
Jeff Mueller: The only other thing I would say is that I am absolutely shocked and surprised when I'm out in the public how many people watch this meeting. I hope that people will let us know that, because there are an awful lot of people that watch these meetings. I kid them about don't you have anything better to watch, but I do think that these meetings being televised—

President Melcher: I used to not think they watched these, but they do.

Jeff Mueller: I know.

President Melcher: I'll be in a restaurant and they say, aww, we seen you on t.v. I know another woman that called me and says, I look forward to watching your meetings.

Jeff Mueller: Yeah, I know. So, I hope that no matter how bad budgets get that we are able to allow the public to still see these meetings.

Commissioner Ungethiem: Well, they can still see them on streaming video.

Jeff Mueller: But, a lot of people don’t have that access.

Commissioner Ungethiem: But, we need to understand—

Jeff Mueller:  Hey, I got kidded the other day, because I got a brand new phone, and my kids are saying, you’re kidding, it's a flip phone.

Joe Harrison, Jr.: Uh-oh.

Commissioner Ungethiem: I’m still holding on to mine, when I’m done with this job, I may go back to it.

Jeff Mueller: So, anyway. That’s all I have. Thanks.

Adjournment

President Melcher: Is that it?

Joe Harrison, Jr.:  Yep.

Commissioner Ungethiem: I make a motion to adjourn.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye. We are adjourned.

(Motion passes 3-0)

(The meeting was adjourned at 5:53 p.m.)

Those in Attendance:

VANDERBURGH COUNTY
DRAINAGE BOARD
VANDERBURGH COUNTY
DRAINAGE BOARD
OCTOBER 18, 2016

__________________________________
Stephen Melcher, President

__________________________________
Joe Kiefer, Vice President

__________________________________
Bruce Ungethiem, Member

(Recorded and transcribed by Madelyn Grayson.)