The Vanderburgh County Drainage Board met in session this 15th day of November, 2016 at 5:00 p.m. in Room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Joe will be back here in a minute, we'll go ahead and start the Vanderburgh County Drainage Board. It's November 15, 2016, I guess it's 5:00 or close to it.

Pledge of Allegiance

President Melcher: If we could rise for the Pledge.
(The Pledge of Allegiance was given.)

Approval of the November 1, 2016 Drainage Board Meeting Minutes

Commissioner Ungethiem: I move for approval of the previous minutes.
President Melcher: I'll second. All in favor say aye.
Commissioner Ungethiem: Aye.
President Melcher: Aye. It passes.
(Motion approved 2-0)

Setting of 1st Drainage Board Meeting for 2017

President Ungethiem: Big Creek Construction in Floodway permit for work to be performed by BCDA.
Jeff Mueller: While I’ve got it on my mind, if I could go out of order for a minute.
President Melcher: Why sure.
Jeff Mueller: January 3, 2017 you’re going to have a Commissioners meeting, could we set our first Drainage Board meeting for that night too?
Commissioner Ungethiem: Certainly.
Jeff Mueller: So, it would be January 3, 2017, and to follow the Commissioners meeting as usual? Then that way Madelyn you could cover that with one advertisement, right?
Madelyn Grayson: Yes.
Jeff Mueller: Where’s that chart about saving money? We got a little bit more. Okay, I’m sorry about that.
Commissioner Ungethiem: Do we need to vote on that?
Joe Harrison, Jr.: Why don’t you go ahead.
Jeff Mueller: Yeah.
Commissioner Ungethiem: I make a motion that we have the first Drainage Board meeting of 2017 on January 3rd following the Commissioners meeting.
President Melcher: I’ll second it. All in favor say aye.

Commissioner Ungethiem: Aye.

President Melcher: Aye.

(Motion passes 2-0)

Commissioner Ungethiem: Do we need to notify, I assume we need to have notification of that as well.

Joe Harrison, Jr.: That will be included.

Madelyn Grayson: Yeah, we could do that in one legal ad.

Commissioner Ungethiem: We could do it with the Commissioner meeting?

Madelyn Grayson: Yep.

Commissioner Ungethiem: Okay.

Big Creek Construction in Floodway Permit: BCDA

Jeff Mueller: Okay, now the construction in floodway permit. As you are aware, the Drainage Board receives a copy of all construction in floodway permits in Vanderburgh County. In this case this is a construction in floodway permit filed by the Drainage Board for the proposed work on what is known as Pond Flat Main, as we call it for legal drains, but through the State it’s known as Big Creek. Because Big Creek meets certain criteria, a construction in floodway permit is required for most work that is done on this creek. As you may recall, we filed a construction in floodway permit last year for work done on the west side of the creek. This year the work is proposed on the east side of the creek. Because there are some wooded areas combined with an old creek channel, we have to be careful to avoid wetlands, and we are limited to any tree removal because of Indiana bats. All that is specified in the permit that we just received. With those issues the construction in floodway permit took a little longer to be approved than the one on the west side of the creek last year. So, we just now got it. For that reason, the work that was scheduled and approved to be done this year probably will not get done until next spring. So, I guess, the only thing I am asking is that we had approved for work for Big Creek an amount of $13,800, and I would like just to be able to carry that forward and let them do that work next year, as planned.

President Melcher: Any questions?

Commissioner Ungethiem: I don’t have a problem with carrying it forward to next year. From a budget standpoint, have you talked with Council?

Jeff Mueller: It comes out of Big Creek’s fund.

Commissioner Ungethiem: Oh, it comes out of the ditch funds?

Jeff Mueller: Yeah, it comes out of the ditch funds.

Commissioner Ungethiem: So, we don’t have to do that.

Jeff Mueller: Right.

Commissioner Ungethiem: Okay. I stand corrected.

Jeff Mueller: But, yeah, the work we’re going to do is on the east side. There’s I-64, this wooded area and there’s actually some old channel in there, so, we have to be careful of it. There’s some stipulations in the permit about what has to be done there.

Commissioner Ungethiem: Okay. I make a motion that we extend the construction in the floodway in Big Creek into next year, until weather permits.

President Melcher: I’ll second it. All in favor say aye.
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All Commissioners: Aye.

President Melcher: Thank you.

(Motion approved 3-0)

### Encroachment Agreement for 7521 Wisteria Lane: Derek Clark

Jeff Mueller: Okay, next is an encroachment agreement for 7521 Wisteria Lane. There’s actually a house on this lot right here, and a house on this lot here. This is for an encroachment of a fence that Mr. Clark would like to erect on his property. Mr. Stoll and I both went out on the property and looked where Mr. Clark wanted to place the fence. I didn’t see any issues with the encroachment. There will still be adequate room for what little drainage comes through the easement, which is this essentially a portion of his yard and his neighbor’s. So, I don’t have any problem with the request. Madelyn has got the formal paperwork. Linda in my office reviewed the paperwork. She’s my encroachment expert, and she reviewed it and everything is good there. So, the guy has a house here, he was wanting to put a backyard fence, there’s an easement right here. It's a 12-foot easement and he’s asking to encroach partially on that. There’s still plenty of room for the water to come in here. About the only water that comes is just a little bit off the two side yards of both homes.

President Melcher: Okay, any questions? I would entertain a motion.

Commissioner Ungethiem: I make a motion to approve the encroachment agreement at 7521 Wisteria Lane.

Commissioner Kiefer: Second.

President Melcher: Okay, all in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

### Dayton Freight: Revised Drainage Plan

Jeff Mueller: Next is Dayton Freight, revised drainage plan. You approved a plan on September 20, 2016 for this site. They're actually going to do a little bit larger parking area than was planned. The drainage plan that you approved on September 20th though actually took into account even a larger parking area, as well as a building extension to where a portion of a temporary lot will be incorporated. So, in the end, they're not changing basin sizes, they're not changing allowable run off, they are looking at placing some fill in this borrow pond that they originally used to take dirt out of. That pond really does not have anything to do with their basin sizing. It’s just off to the side, kind of out of the equation. So, when they went through their numbers, they found a few things, nuances, I guess, they wanted to change. So, essentially, what they did is, they gave us a new drainage plan. It’s almost the same as the old one, with a few small numbers changed. So, what we want to do is just kind of approve the new plan, and take the old one out. You would have to look really hard to find the differences in it though. So, the final drainage plan that’s requested to be approved was submitted on November 2, 2016, which like I said is essentially the same as what was previously approved, with a few revised pages, that were also submitted on November 14, 2016. Along with the submitted plan is a list of oversized drawings, the list of which is included with the submitted document. This drainage plan, along with revised drawings will replace the previously approved plan. The review document previously approved from this drainage plan will be a part of this revised plan, because it’s really not anything that’s changed that much. The drainage plan was reviewed by the County Surveyor and is 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. As with the previously approved plan, these proposed plans are for improvements that only include a paved parking lot. There won’t be any certificates of occupancy issued, so, therefore, I would recommend to the Board, and if the Board approves the recommendation, that we will note in the file
that sign off for the proposed improvements will be granted, but no sign off for any future
improvements will be granted until they’ve given us a certification of the basins. So, we
will have on file that you can go ahead and build your parking lots, but when you guys
come in again, you’d better have your basins certified or we won’t be doing anymore sign
offs.

President Melcher: Any questions? I would entertain a motion.
Commissioner Kiefer: So moved.
Commissioner Ungethiem: Second.
President Melcher: All in favor say aye.
All Commissioners: Aye.
(Motion passes 3-0)

Spaetti-Meyer Drainage Obstruction Petition (Continued)

Jeff Mueller: The obstruction petition, Spaetti-Meyer, which we continued. I’ve talked with
Mr. Spaetti this morning, and as he stated, he hasn’t had a drop of rain in eight weeks.
So, we don’t know if the improvements that were made by his neighbor are working or
not. As you are aware, the forecast is for rain on Friday, so, I would like to wait and see
what happens with this rainfall and we’ll carry it forward one more meeting.

President Melcher: Okay. Do we need a motion for that?
Commissioner Ungethiem: So, we’re just going to continue that till the next meeting?
Jeff Mueller: Yes.

Joe Harrison, Jr.: I don’t think you need to do anything.
President Melcher: I didn’t think so.
Joe Harrison, Jr.: You’re going to come back in three weeks.
Jeff Mueller: Yeah.

President Melcher: Okay.
Commissioner Ungethiem: Pray for rain.
Jeff Mueller: Yes, my dust needs it. I mean, my yard needs it.

Trilogy North: Status of Work

Jeff Mueller: Alright, next is Trilogy North. These pictures were what was shown to you
at the previous meeting. Okay? John and I went by this site yesterday, on November 14th,
the basin construction has been completed. The concrete debris was removed, and the
basin has now been seeded. There were also a lot of other work done on the site that
doesn’t have anything to do with our drainage plan, but it is looking better. I was talking
to the engineering firm yesterday that represents them about a different issue, and they
had been contacted, and have been out to do the survey to give us the certifications. We
don’t have them yet, but at least they have been notified by the developer to come out
and do the work, and like I said, the field work has been done. Okay, the only thing that
hasn’t been done is the swale on the property, which still has to be completed. Outside
of that potential swale, if it were to have a lot of rain and get some dirt in our basin, if it
doesn’t work it’s only going to screw up their own property. So, my own thoughts on this
is that we still hold over their head signature for certificate of occupancy, and we are still
waiting. We would like to see that ditch done, and we would like to see a certification. I
know we talked about fines, but if we would decide to do any fines and we notified them
on a letter dated November 1st, they didn’t actually get the letter until November 7th, but if
whatever fines we would want to do, I would recommend that we wouldn’t, if we decide
to do them, I guess we would start on the 7th, but I would recommend that they stop as of yesterday. We got their attention. They’ve still got a little work to do, but I think we’re on the road to where we want to be out there. John, do you disagree with that?

Commissioner Ungethiem: Jeff, do we know, are they committed to get this done by the end of the year?

Jeff Mueller: I don’t know that, because we didn’t run into anybody. But, again, Bruce, if we don’t sign off on their certificate of occupancy and nobody can go in that building, and they can’t do anything. So, and ourselves, with APC, we’re all working together on this now, on making sure that everybody’s got their issues cleared up on these things before they move in. I think Ron London’s doing a real good job of getting us all under one umbrella and working together on this issue. Like I said, I don’t know if you even want, what you want to do about fines, but I would not recommend, I would at least recommend a stop date of yesterday on them.

Joe Harrison, Jr.: Let’s wait and see.

Commissioner Ungethiem: Okay.

Commissioner Melcher: We could do that. We’ll just wait and see.

Jeff Mueller: Okay, that’s fine.

Blue Heron: Revised Drainage Plan

Jeff Mueller: Next, Blue Heron. As you are aware, this is a continuation of a discussion from the last meeting. I believe the thought was that we might have something to approve, but I can tell you we’re not quite there yet. At the last meeting I gave you a review sheet of the drainage plan that was submitted on October 19, 2016. It’s one of my famous colored review sheets. Revisions to that sheet were submitted at the end of the day on Monday, November 7th, and with the Civic Center being closed on November 8th, we’ve only had a few days to review the submittal. With that said, you have in your package an updated review document, the colored printout there. I just kind of want to go through this a little bit fast, kind of as a quick summary. If at the end of the document you see a purple, something like in purple, that means that they addressed what was in red. So, for example, if you would look at the bottom of page four, you would see that there’s a red comment regarding swale S-220. As you can see on the top of page five there’s a comment that said this has been addressed. Although, then we do have a comment next to that saying that, you know, even though they’ve addressed it, we also want to see that information on the swale table that they still have to submit. Then, you can see the very next comment is in regards to a waiver on Lot 3, and you can see they haven’t addressed that yet to where we want it to be, and we’ve added an additional comment about how the waiver needs to be provided, it has to be more descriptive. Then the next two comments you can see they end in purple. So, on those particular issues they’ve met it. So, if you want to kind of have a feel for where we’re at, a lot of comments were sent out, some stuff was submitted, John and I have reviewed it, some things we’re happy on, some things we still need some information on. Okay? So, I just want to bring that to your attention so you know where we are. In addition to the comment that you’ve had there, you have in your file two letters in your package; one from Mr. Mike Lodato, and one from Mr. Charles Anslinger. They’re both here tonight, and they may want to address the Board, I think they probably do. There’s probably some other folks that also want to be here. I will tell you that by sending notices out, which I’ve been a proponent of, it’s made us more busier, but it’s given us an opportunity to explain things to folks, and hopefully help them understand what’s going on out there, and what's being proposed on their property. So, that doesn’t mean that they’re not going to have some questions or some comments, but at least I feel that the process has been open, and that’s what we’ve been trying to make sure of on this project. Okay? I do want to summarize that, in the public notice to these folks, it stated that the drainage plan, or in this case the revised drainage plan, for Blue Heron was to be heard tonight for approval or disapproval, and we’re not there yet. We’re not ready for anything to be approved. So, I don’t know when we will be there, because there are a number of issues to be addressed yet. So, I guess, I don’t know how you guys want to proceed, but, I guess, my thought is if you had any more
questions right now of John and I, or if you wanted to proceed with hearing from the developer, or if his engineer has anything? Then, I know there’s some folks in the audience that would probably like to address the Drainage Board.

President Melcher: I guess it would proper now to hear from the developer.

Jeff Mueller: Okay.

Chris Wischer: As you all know, my name is Chris Wischer. I’m an attorney with the Bamberger firm, and I’ve been working with the developer, Blue Heron Development, here, along with Morley and Associates, Jim and Jeremy, to try and persistently get this thing pushed to the finish line. Unfortunately, I’ve got a Town Council meeting up in Elberfeld at six, so I’ll be heading out here shortly. The folks with all the information are Jim and Jeremy and Alan. They’ve been working hard, there’s a contractor out in the field, they’ve done a far majority of the actual earth work that can be done, that doesn’t need to be approved before it’s done. They’ve met with property owners, sent out all of the encroachment agreements, obtained quite a bit of waivers and other documents that are necessary. The plan, I think, tonight is for Jim Morley, Jr. here to walk you through what they have done, so you can get an understanding of all of the work that has been done, along with what’s yet to be done, what issues still need to be resolved, and what our time table is for getting those things done. In the last two weeks, I think they’ve done about everything you could possibly get done in two weeks. As Mr. Mueller said, there’s been some back and forth on the drainage plan, obviously, it’s a complicated document. There’s some things that he still wants to see, and they’re committed to make him get his approval, and we’ll do everything that he needs done. So, with that, I just wanted to kind of kick off the matter, and let Jim kind of walk you through what they’ve done, but if I walk out, it’s not because I don’t want to be here, it’s I can’t be in two places at one time. I haven’t figured that out. So, anyway, thanks.

Jim Morley, Jr.: Jim Morley, Jr., of Morley and Associates, Project Engineer. So, you should have gotten passed out to you a stack of papers, if you will. The first one, for lack of better terms, we’ll call it the numbers sheet. That is the work that’s been done within the last two months, basically, out there. We’ve redone just under 2,600 feet of swales. That’s about a half a mile of swales. There’s about 900 feet of French Drain and pipe work that needs to be done, but that’s work that we’re waiting, that we want to hold off on until after the plan is approved. We sent out 15 encroachment agreements have been drafted and submitted, 24 waiver and releases, two elevation certs, an easement vacation, a 106 notices sent out, and partridge in a pear tree at the end. So, there’s quite a bit of work that’s been done, from a paperwork standpoint, and also from a field work standpoint. The next document you see looks something like this. You had all asked for a schedule, a construction schedule of what’s going to happen, and so we’ve got that put together. The longest lead items deal with vegetation basically. We feel like we can get most of the stuff done this year, but some of the stuff that was planted earlier for the county to accept it, typically, they want substantial vegetation, which won’t occur until next spring. So, if you see that that drags out until next spring, that’s what you’re seeing, vegetation going out next spring, and then we assumed that come spring time if there was ever any erosion or anything that occurred over the winter, we assumed that John and Jeff would want to do another punch list in the spring to deal with anything like that, and then a little bit of time to touch that up and so forth. The majority of the work though, as you can see represented by the next page back, that has the red lines on it, so to speak. The red lines are all of the, everything that’s been done. Then there’s a little bit right here, here and here, and that’s pretty much the majority of what’s left to be done. Those three items all happen to be where we have a pipe involved, or a French Drain involved, and so the contractor who’s out there has just been working super hard, trying to take advantage of the good weather we’ve had to get as much of this dirt work done, and actually the majority of it has all been sodded. Where they had real nice lawns, they came back and put sodding in, instead of planting it in grass. So, the majority of that has a substantial vegetation on it already. Then the, behind that you’ll see, oh, what’s that, 15 pictures or so? Those are all referenced on the front page, and it shows you which photo is where, and you can see quality of the work that’s been done to date. I feel like, the contractor that’s been out there has been doing a great job. The pipe work and stuff is stuff they can even continue to go on this winter, or this late fall, if you will. However, they’re just wanting to hold on that, because that is, that’s putting a pipe where there
wasn’t a pipe before. So, we want to make sure we have drainage plan approval to do that. The other was swale work, and there were swales there before, so it wasn’t a total change in plan, so to speak, like a pipe would be. So, we’ve been real happy with the quality of the work the contractor has done out there, with the amount of work he’s been able to get done. We have, since we last met, we did submit stuff to Mr. Mueller, and he has replied back and we’re going through his comments. To the best of my knowledge, and I don’t want to speak out of turn, so, Mr. Mueller can correct me if I’m wrong, I don’t think there have been any issues with any design that we’ve proposed. The majority of the items there deal with, you know, how it’s represented on plans, and how the documentation looks. But, as far as slopes of ditches, or sizes of this, or depth of this, I don’t believe he’s had any issues with that. So, I feel like the construction that’s been done, and the construction we have proposed, I don’t feel like that’s been an issue as far as, you know, he thinks that we need to put all of the ditches a different direction. I feel like we’re mainly dealing with paperwork and how it’s going to be annotated on plans and the language that’s used in some of the documents that the neighbors will sign.

President Melcher: Any questions?

Commissioner Ungethiem: Jim, you mentioned that you had put down quite a bit of sod in these locations. Do we have a plan to keep that sod watered and keep it alive?

John Griese: We do. The sprinkler, the person I’m working with that has been repairing sprinkler heads, has turned the back half of them on so that we can keep that watered. We have been in areas that need water that we don’t have sprinklers, we’ve been sprinkling it with water. So, the sod overall looks real good.

Commissioner Ungethiem: Can you state your name for the record?

John Griese: My name is John Griese. I was hired by Alan Bosma and Ron Lamping. I have the dubious title of being Director of Communications for the Blue Heron Development Corporation. I’m the one who sent the encroachment letters out to these people. It’s been an interesting job.

Alan Bosma: He did all of the door knocking.

John Griese: I did. I am the door knocker.

Alan Bosma: If you have a problem, that man took care of it.

John Griese: I’m the guy who worked with the homeowners, still working with them, and that’s my primary thrust is to make them happy, make sure that the work gets done, their yards get put back, their fences get put back up, their sprinklers get repaired, anything that we have to do that would help move this project along. I’m also working with the engineers, Jeremy. Jeremy and I have, we share a lot of notes back and forth together about things that people have questions about, and how this could be resolved. We’ve sent back engineers, or the surveyors, to re-survey certain areas. I’m working not only with the engineers, but with the streets to keep the streets clean and the trucks off, because these people live there, in this very affluent neighborhood. You know, I can honestly say that if you look around this room, there are some people here, but there’s quite a few people that live out in Blue Heron, and I wish that the people that I’ve met in the last three weeks or four weeks were here to support us, saying they did a great job, great job. My concern is, is that we’ve done all of the swale work, I mean, we’re nearing that end. We need your help to further approve some work that needs to be done, especially with drains that need to be buried. People are aware that there’s certain areas that haven’t been completed, and I’m still working with those homeowners. I’ve got to deal, or help them understand how a French Drain is going to work, or maybe we’ve got to move their fence back a little bit. But, everybody that we’ve worked with on the fences and the sprinklers and the sod people, great, they’ve done a really nice job. I have about four people, and I can honestly say I don’t know if I can make them happy. They’ve been down to talk to Jeff, at the Drainage Board, and I’m hoping that that will be resolved.

They’re things like what do we do with a fence that’s not on property, but yet it’s a wooden fence so we have to let the water flow through? The work has already been done in the swale area, it looks good, but we’ve got to figure out how to get these people’s fence back up without blocking the water flow. We have one lot that I’ve had three times looked at, and they said, the slope is fine, it’s a very flat lot, but it has water on it. The water is in the
back corner. Well, when you look at the lot it has a sump pump draining back there, and it has water that's collected from the downspouts. So, everyone is saying, well, John, it's probably because of that. I've made an offer to move it, to see, not acceptable. Ron Lamping had offered some dirt, maybe he's got a low spot, not acceptable. So, things like that, I think, need to be settled on a one to one basis, and not stop the majority of the work out there. We're losing time, you know, it's going to be winter one of these days. I'm just happy that we're putting everything back with sod. We're keeping the streets clean, and trying to keep the people happy, repairing what we tear up. I'll continue to work hard for both the people that live in the subdivision, as well as the people I represent. I promise you that. When we sent those notices out that they were encroaching, we sent them out and I make a conscious effort to get a hold of people and explain what that meant. Everybody's a little concerned about the certificate, because it states right there in this encroachment agreement, that there's a certificate that they have to get from their homeowner's insurance and name the Drainage Board as the person or people that would be notified if they dropped their insurance. I did meet a gentleman who works for State Farm out there, and he said, not a big deal. All these people have got to do is call their homeowners' insurance and add them to the policy, and then the homeowner's policy, every time they renew it, automatically sends it to the Drainage Board. That was part of that encroachment agreement, and that's caused a lot of, oh my God. Sometimes keeping it simple would be better, but I understand the complexity and legality of it. By the way, I don't know who said that we didn't have a waiver for Lot 3, but I do, signed. So, let's see, what else do I have here, not much, I just think we have to get something approved soon to be able to continue to work.

Commissioner Ungethiem: So, you're requesting a revised drainage plan be approved?

John Griese: I'm not an engineer. I'm not a surveyor. I just know that...is that what you're going to do? I'm not, I just need you to help us approve something that we can continue on.

Commissioner Ungethiem: I understand. I don't know that we have a revised drainage plan at this point in time, so, we can't approve something we don't have. Is that right, Jeff? We do not have a—

John Griese: We understand that. Thanks.

Jim Morley, Jr.: Thank you. So, as you can see, we've been busy for, truthfully, the last couple of months, but the last two weeks has for sure there's been no letup in the amount of effort going on to try to bring this to a conclusion. I know this is an important issue for the Board and for the County Surveyor's Office, and we sure want to respect that. There's a commitment from the developer to keep going full steam ahead until he's done. We are running out of work that we can do, short of these pipe issues, and I get that we have to get a plan approved. I totally get that. We're, you know, we'll reply back to Jeff with those comments. I don't know if Jeff's okay with the pipe work, so to speak, you know, I mean, if he can say yeah that looks good, maybe we could go ahead and do that while we're working out some of these signatures. Or, while we're working out some of these, the way it's showing on a set of plans, you know, if he says, yeah, I'm good with the pipe, then we could go ahead and keep moving forward on that too, you know, and maybe we could do that work, you know, next week or the week after that, or whatever. I don't know if that's a possibility for him to be able to say, yeah, that design looks good for the Surveyor's Department, and you guys would give him that authorization, and then we could continue to work through some of the paperwork side of it. That would allow them to keep their machinery out on site and keep going, if that's something you guys would entertain, but either way, you know, I mean, we have no plans on stopping, moving forward as far as getting the answers to Mr. Mueller that he's seeking, and getting you guys a revised drainage plan, in its entirety, that's acceptable and approved by y'all. If, in fairness, if that's something that y'all would consider as far as those pipes, that would allow the contractor to stay on site, because they're pretty close to getting all of the swale work done. So, I don't know if that's an opportunity or not, you know, but that would allow them to keep moving and keep improving the situation.

Commissioner Ungethiem: Jim, the work that you've done out there in the last six to eight weeks, is that consistent with the original drainage plan? Or, are there things that are different?
Jim Morley, Jr.: It is consistent to the theme that if there was a swale there before, there’s a swale there now. It is consistent to the theme that if we, you know, we had more than minimum slope before, we have more than a minimum slope now. There may be places in which we used to have, on the original plan we had, let’s say, 1.4 feet across a lot, and now we have 1.6, you know, but the original plan was a ditch that had the capacity to carry the water, the revised, what’s been constructed is a ditch that has the capacity to carry the water. Whether the upstream or downstream elevations may have fluctuated a little bit, at the end of the day it’s, your drainage manual says any ditch that has less than a .8 percent slope requires a concrete ribbon in the bottom, and so we’ve stayed above that on all of our swales, as was outlined in the original drainage plan. So, to that extent, yes, it’s in keeping with the original. The difference, the reason we’ve held out on these pipes, is one, to be honest with you, purchasing a truck load of pipe is big dollars, you know, and so you don’t want to purchase a truck load of pipe unless you know you’re going to use a truck load of pipe. The other part is, is that is where we’re going from it was a swale, and now it’s a pipe. So, that is a bigger divergent from the original plan that we’re seeking that approval before we do that. There’s a pipe, one of the neighbors has requested a pipe up right along Millersburg Road, and that is, was going to be a 21-inch pipe, they’re out of stock of that. So, I think we’re going to switch to a 24-inch pipe, but that’s where there was a ditch and we’re going to put a pipe in, or want to put a pipe in instead. I think the neighbor wants a pipe there also. It improves his yard, but that’s a difference from the original plan. So, we don’t want to go out and put a pipe in, and then somebody say, well, that’s not what the original plan was, rip that pipe back out of the ground.

Commissioner Kiefer: Jim, does the pipe carry more or less water than the original plan?

Jim Morley, Jr.: The pipe carries more, the pipe that dumps, the existing pipe is a 21-inch pipe. We were going to extend it with a 21-inch pipe, they don’t have 21-inch pipe in stock, at least the last time we checked, and so it looks like we’re going to extend the 21-inch pipe with a 24-inch pipe. So, it carries more.

Commissioner Kiefer: Okay, but the reason you may have problems with that is because what you’re saying is, either (a) neighbors don’t want to do that, or there’s some kind of other reason?

Jim Morley, Jr.: We have no problem with it. We just don’t want to assume that Mr. Mueller or yourselves are okay with us switching from an open swale to a pipe.

Commissioner Kiefer: Right.

Jim Morley, Jr.: All of the others we were going swale to swale, you know, and so it was, you know, it may have been here or here, but it was still a swale and it was still green, you know, this is...we just don’t want to assume that you’re okay with it. Trying to be, I guess, respectful.

Commissioner Kiefer: Your earlier request about being able to keep trucks out there and keep working and things, is that, can we legally do that? I mean, without the plan being approved?

Commissioner Ungethiem: Well, that would be my question for Jeff. Is can we do conditional or partial approval of—

Jeff Mueller: That’s a question of Mr. Harrison.

President Melcher: Oh, we’re passing the buck.

Joe Harrison, Jr.: Yeah, I just have a problem with, you know, assuming that a pipe is going to be approved by the Drainage Board, and it may not get approved.

Jeff Mueller: And that’s correct. I am the technical advisor to the Board. I’m not a voting member.

Joe Harrison, Jr.: The other issue I’ve got are all of these waivers and the encroachment agreements that just aren’t specific. Jeff has looked at them, and, you know, you’re going to have to get that straightened out.
Jim Morley, Jr.: Totally committed to doing that.

Joe Harrison, Jr.: ASAP.

Jim Morley, Jr.: Totally committed to doing that. I mean, we’ve turned, and I don’t know how many of them you’ve reviewed.

Joe Harrison, Jr.: The waivers aren’t specific as to what they’re waiving.

Jim Morley, Jr.: And we’re committed to doing that.

Joe Harrison, Jr.: Okay.

Jim Morley, Jr.: We’re committed to working with the County Surveyor’s Office to come up with a plan that he can recommend to you all to move forward. You know, it’s, in the last two weeks, I mean, we had to get the plan submitted to him early enough, even trying to get enough time for him to review. I mean, so we didn’t have two weeks to revise a plan, we have, basically, a week, and that still wasn’t enough time, because of election and so on. So, I mean, we’re dealing in a very compressed window.

Joe Harrison, Jr.: Well, you’ve got three weeks till the next meeting. Okay?

Jim Morley, Jr.: So, we’ve got that going for us. But, I mean, we are working hard, and we can add detail in, we’re not against adding detail, it’s just a matter of how much, there’s only so many hours in the day, and yet he still needs time to review. I guess, what I was curious about is if the Drainage Board could give Mr. Mueller the authority to say, if you’re okay with the pipe design, we’re okay with you authorizing the construction of it.

Commissioner Kiefer: Okay, so, I think that makes sense to me. It would be at his discretion.

Jim Morley, Jr.: Agreed.

Commissioner Kiefer: Which we’re going to listen to him anyway when he comes before the Board, but, I guess, my question was, can we give him that authorization to do that? I’m okay with doing it, if he’s okay doing it, because the bottom line is I’m not an engineer, and I wouldn’t know the right answer one way or the other.

Jim Morley, Jr.: Oh, it’s a lot of fun. You should try it.

Commissioner Kiefer: Yeah, but I do trust that Jeff Mueller, if he came back and recommended a certain pipe size, that I would say okay. But, I don’t, I guess, I’m going through the logistics, can we give him that type of authorization?

President Melcher: Let’s ask Jeff if he even wants to do that.

Joe Harrison, Jr.: Yeah, that’s what we want to hear.

President Melcher: That’s the question to be asked.

Jeff Mueller: Okay, let me back up, because see we’ve gotten thrown for a loop, because this 315 feet of pipe on—

Jim Morley, Jr.: That’s a pipe and swale.

Jeff Mueller: Okay, so how much pipe? We don’t have 315 feet of pipe?

Jim Morley, Jr.: It’s a combination of pipe of swale.

Jeff Mueller: So, are you back to the 100 and something feet or whatever?

Jim Morley, Jr.: Yeah, and they’re working that out with the landowner.

Jeff Mueller: Okay, but also if you’re going to change pipe, you know you’re going to have to put a box in?

Jim Morley, Jr.: Yes, we know that.

Jeff Mueller: Okay, so, we don’t have that drawing?
Jim Morley, Jr.: Yes.

Jeff Mueller: Okay, with that said, I was just talking to John, and the two things that we would be okay addressing would be, once they, if they switch to a 24-inch pipe, they’re going to have to give us some information on the box, but we would be okay on looking at this box and pipe on Millersburg Road, which would be nice, because if we got that nipped before the weather got bad, it would be…plus it’s a little bit unsightly right now, because it’s under construction. The other thing is, that I really want to see addressed is, the swale between, what street is that, Osprey and whatever? That’s the one where—

Jim Morley, Jr.: That’s the French Drain.

Jeff Mueller: --that’s the French Drain.

Jim Morley, Jr.: And we would like to get that in too.

Jeff Mueller: I would love to see that. So, I would, John and I would feel comfortable going ahead, and we’ll kind of review those and get back to them here shortly on those two issues.

Jim Morley, Jr.: Any chance you would you look at that one also? That’s a pipe also.

Jeff Mueller: Well, I didn’t know what you were doing on that one.

Jim Morley, Jr.: That, we were planning on, like I said something to John about earlier, about basically taking that manhole off, taking the pipe up another ten feet or whatever.

Jeff Mueller: Do we have a design on that?

Jim Morley, Jr.: We have.

Jeff Mueller: On that one home where the pipe is right next to (Inaudible).

Commissioner Ungethiem: Going into the retention pond, off of Bayshore Drive, is that the one you’re talking about?

Jeff Mueller: Lot 48 and Lot 49, John?

Commissioner Ungethiem: I would be comfortable with those three incidences, if Jeff is.

Joe Harrison, Jr.: Yeah, right.

Jeff Mueller: Jeff and John.

Commissioner Ungethiem: Jeff and John?

Jeff Mueller: This one right here, where the house is too close to the pipe, the redesign. Are you okay with that one?

John Stoll: I would be okay with that one, but I don’t like this note on here saying that the County Engineer must inspect and approve the grouted caps prior to contractor backfilling, because that’s basically putting the responsibility on the county. Saying that the pipe plug being left in place is okay. It’s going to be right up next to someone’s house, and I don’t think the county needs to be responsible for certifying that it was done properly, when the house shouldn’t have been up where it is up on the easement anyway. So, subject to making changes of those statements—

Joe Harrison, Jr.: That’s got to get out.

Jim Morley, Jr.: Yeah, there wasn’t an intent to transfer liability, we just wanted to make sure you all were okay with the work they did. Not from a liability standpoint. That was not the intent. So, whether if, if there is additional information we need to provide on those pipe situations, we’re happy to provide that.

President Melcher: Well, that would be up to them. That’s who you need to talk to.

Jeff Mueller: So, I guess, what we’re talking about is a contingent approval for three things? That would be the pipe along Millersburg Road, the swale behind Osprey Court.
Jim Morley, Jr.: The French Drain.

Jeff Mueller: Or the swale/French Drain, because I know the swale is going to be downsized to eight inches. It was going to be eight inches deep.

Jim Morley, Jr.: Yeah.

Jeff Mueller: Plus, the French Drain, and the pipe between Lot 48 and 49, that, you guys, would say if John and I are okay with it, that you would approve those three things. Is that what we’re saying?

Commissioner Kiefer: Yes, that’s what I was saying.

Jeff Mueller: Is Mr. Harrison okay?

Joe Harrison, Jr.: That’s fine, that’s fine, but, again, that would be in the final drainage plan whenever it comes, but you’re letting them preliminarily start on it. If you approve.

Jeff Mueller: And, anything we do will be in writing.

Joe Harrison, Jr.: Yes, and you’ll send it to the Drainage Board also.

Commissioner Kiefer: So, do we need to make a motion?

Joe Harrison, Jr.: To that effect on those three. Is it those three lots, or three—

Jeff Mueller: Three issues.

Joe Harrison, Jr.: Three issues. Will you repeat them one more time?

Jeff Mueller: Okay. The pipe/swale along Millersburg Road, that’s adjacent and part of Lot 80. The pipe that is in the area of Lot 48 and 49. Tell me one more time this street?

Jim Morley, Jr.: It’s the French Drain—

Jeff Mueller: The French Drain/swale on the south side of Osprey Circle.

Commissioner Kiefer: Okay.

President Melcher: Okay, I think we’ve got this. What I would like to do now is have you gentlemen sit down, and I want to see any of the neighbors, if you would like to get up and say something. This would be the time to do it, because I’m not voting on nothing until we hear from the neighbors.

Jeff Mueller: Okay, can I make one other comment? I think we stressed this before, but so we understand, when we have a signed waiver, like on Lot 3, we were very specific last time about we wanted to see the waivers first, we want very descriptive information. We do not want to say that your waiving the drainage, because we like it as is. Because that’s not going to work 20 years from now when the next homeowner goes, well, my drainage, well, we have a statement in there that says that somebody was fine with it the way it is, and we don’t know what the way it is 20 years from now.

Commissioner Kiefer: The way it is, is, yeah.

Jeff Mueller: So, we’re going to have to be specific on the waivers, on those languages.

Joe Harrison, Jr.: I think the one on number three is up here. So, they might as well take it.

Jeff Mueller: That one is one of them that’s like, sorry, we’ve got to have more specific language.

Commissioner Kiefer: I would like, before we move forward, I will just, to get into your discussion, I’ll make the motion to approve—

Joe Harrison, Jr.: Those three items.

Commissioner Kiefer: -- those three items.
Jeff Mueller: I think Mr. Melcher wanted to hear from the public though first.

Joe Harrison, Jr.: That’s fine. Is there a second?

President Melcher: I do. I think we go, they’ve been here listening to everything. We need to—

Jeff Mueller: They may have comments on these three items.

President Melcher: --they might, that’s what I’m trying to say.

Commissioner Kiefer: I was just trying to do that during the discussion portion of the—

President Melcher: Well, I just think that they ought to have their right to say something before we vote on something else.


Jim Morley, Jr.: Do you want me to get that waiver for Lot 3 that was submitted up there?

Joe Harrison, Jr.: Yeah, appreciate it.

President Melcher: Alright, so when you come up, just give your name and address. So, just somebody come on up. We just need the name and address for the minutes of the meeting.

Bruce Lawson: I’m Bruce Lawson, I reside at 7930 Pelican Pointe Drive. I also own Lot 80. I would like to address item number one, the pipe along Millersburg Road. I presented you, I guess, now a month ago, with photos and with my concerns regarding that, and I am an advocate for the pipe. With all due respect, sir, I’ve never met you. I have no idea who you are. I would like to meet you, because I would like to find out what’s going on in the neighborhood. That being said, I am an advocate for that pipe. Some of the details, which I’ve not seen any of it, is how long is the pipe? What’s the intended purpose for putting it in? Not the intended purpose, I know what the intended purpose is, but the length of it? How’s it going to impact my property? Hopefully favorably, because the contractors are going to need to come on to my property to be able to do that work, and I want some assurance on what exactly is going to happen. I do want the pipe. I would prefer to have—

Commissioner Kiefer: So, you own this lot here up against Millersburg?

Bruce Lawson: Yes, sir.

Commissioner Kiefer: Okay.

Bruce Lawson: Yes, sir.

Commissioner Kiefer: Is this your house here?

Bruce Lawson: I would have to see the—

Commissioner Kiefer: Well, I just want to make sure.

Bruce Lawson: My house is brand new. It may not even be on there.

Commissioner Kiefer: Oh, so you’re right here?

Bruce Lawson: I built on this lot.

Commissioner Kiefer: Okay.

Bruce Lawson: Most of 79 and a little bit of 80, but I own all of that back there.

Commissioner Kiefer: Gotcha. Okay, that makes sense. Thank you.

Bruce Lawson: So, to repeat—

Commissioner Kiefer: I can see why you’re concerned.

Bruce Lawson: Yes, and they are going to be entering on to Lot 80, my property, to get to that ditch to do the work. So, I would like to know the details, but I am an advocate for
that, and I would urge you to at least approve that number one project, if not all three tonight. That's my concern, for that number one, on Millersburg.

Commissioner Kiefer: Thank you very much.

Commissioner Ungethiem: Thank you.

President Melcher: Okay, next.

Charles Anslinger: Hello, I’m Charles Anslinger. I live at 8424 Pelican Pointe Drive. One of the reasons we’re here tonight is, I want to thank you, the Board, that has placed the letter out there in September to get this ball moving. Otherwise, we would not be here tonight. This is all due to procrastination that has not been taken care of over the course of this subdivision being developed. Now we feel like we’re all being pressed against the wall. The County Surveyor and the County Engineer, to have to run out there that much more, and spending more time taking care of this situation that should have been taken care of several years ago. We’ve all been mowing around Morley and Associates stakes for the last two summers, waiting for something to happen. Now we’re all at this. One of the things about my lot, which is Lot 63, I sit there and there’s nothing to be done on mine. Yet, I have standing water standing in mine constantly. I don’t know what’s going on and why it shouldn’t be, but, I mean, there should be some kind of drainage that’s going on down through there. Mr. Griese talked to the guy next door, you heard him earlier that he was willing to put dirt over here on my neighbor’s lot to fill it up, which is only going to make my lot that much worse. So, it sounds like there’s a lot of taping together of all of these waivers and all of this stuff, and, I mean, I want this thing done right, so it can be put to bed, and we can all rest assured that it is done. I know that it’s been long in the making, but I don’t want the Drainage Board to have a gun at its head because somebody's saying we’ve got to hurry, we’ve got to hurry, we’ve got to hurry, because we’re running out of time. So, I do ask you all to take your time and make sure that this plan is laid out right, and that everyone is satisfied, and both the contractor and the residents feel like we all can live with what comes out of this. Thanks.

Commissioner Ungethiem: What was your lot number again?

Charles Anslinger: 63.

Commissioner Ungethiem: 63? Thank you.

Michael Lodato: Board, my name is Michael Lodato. I live at 8438 Pelican Pointe, which is lot number 62, which is next door to Mr. Anslinger who just spoke. Appreciate the opportunity to address the Drainage Board. I’ve had, I’ve owned this lot since 2010. My wife and I built a house there in 2013, and we moved in in November of that year. We’ve been there three years this month. I have water in my yard, actually I say it’s my yard, but it’s actually in the easement. Water has ponded up there, and it’s a permanent wetland. I brought this to Mr. Bosma’s attention numerous times, and the fault or blame has been placed with my neighbor’s layout, or with the contractor, or with something else, or tree stumps, but nothing has been offered to me to alleviate that problem. I received a letter from Blue Heron that states that they want me to sign a waiver and release. Now, of interest to me, and I pointed this out to Mr. Mueller, and also to Blue Heron, Mr. Bosma and to Mr. Griese, the proposed work, it says, “no work is proposed”. I would like to know why I am to sign a waiver when no work is proposed? I feel like there’s been, and I hate to use the word conspiracy, but I’m a property owner, and decisions have been made away, in some place, and we’ve been left out of it. Then I understand that this waiver, were it to be signed, it’s attached to my deed into perpetuity. So, and I also know, I looked at the plat, and I don’t have it with me, but Jeff does, or somebody does, Lot 62 is the last house on Pelican Pointe Drive. There’s an old field to the north of me. I’m the highest point in this subdivision. There’s nobody upstream from me. So, any water I have comes to my lot. The source of water on my property is strictly precipitation, natural precipitation. I have gutter water that drains to the front, to the street, and some to the back, and I also have a basement, and it periodically when it rains, it will eject some water, and that goes right to the drain. You look on the plat map, that is the drain. There’s a drainage easement there. I don’t know what good the drainage easement is if you can’t put water in it, but water ponds there all the time. So, now I’m told that no work is planned for my lot. Sign a waiver, but we’re not going to do any work on your lot, but you must keep the water there.
You have to live with the water on the lot. Now, I have frogs living in there, I have aquatic plants growing there, which I happen to like, but it shows it's a permanent wetland. I get mosquitos as well. Now, if that's a drainage easement, that seems to me would be an infringement on the easement, to block the drain. I might be able to work with something like that, but Mr. Anslinger is my next door neighbor, I don't know if it's going to put water in his yard or not. I just don't know. But, I see that people somewhere, someplace have made decisions that they're not going to treat my yard, or drain my yard, and the water is not in my yard, as Mr. Griese stated, it's in the easement. It's in the drain. Now, if you look on the revised plan, and I don't know which one Mr. Morley looked at, but the revised plan, it shows, in red, the places they're going to work on, they have no plans to do work on my property. I've also been asked to sign an encroachment agreement. I have a fence that does in fact encroach on the easement, but I see no reason to sign either of these, either the waiver or the encroachment agreement if you're not going to do any work. There's nobody upstream from me, and you're not planning to do any work there. I noted from the minutes, from the website of the Drainage Board, and I don't know if this is November the 4th or November the 11th. When you go to the website it dances back and forth. The items in red, this is probably not the one that Jeff introduced, the items in red in the back, on the last page, page eight, it says, "What is the purpose of the drainage easement on Lot 62?". That's mine. "Would it not be better to vacate this easement?". Where I'm positioned in this subdivision, that's a question that must be asked, and if I'm not going to sign a waiver, and I'm not going to sign the encroachment agreement, that puts me in a position of it's very disruptive. I have to take the fence down and move it in. It's a considerable cost to me, and no work's to be done. They're not going to do any work out there, and I've still got the ponded water. I'm in a catch 22. I can't win. So, I'm willing to work, I'm a reasonable person. I'm willing to work with Mr. Bosma and this gentleman.

John Griese: John.

Michael Lodato: John, and Mr. Lamping, but I want to be talked to. I don't like these decisions being made behind my back in some corner somewhere, and we're left out and presented with no options or being boxed in. So, if these gentlemen want to work with me, and I appreciate the work of the Drainage Board and Mr. Mueller, I see some room here to work something out, but I don't like being boxed in with little choice and being forced, asked to sign a waiver and sign the encroachment agreement when it's absolutely no benefit for me. It does nothing for me, nothing. So, with that in mind, I think it would be wise to defer any decision on this revised drainage plan until all of our interests are included. I have some suggestions I'll make to Mr. Mueller prior to, some options, prior to the next meeting.

President Melcher: So, you would have a problem with us releasing what they've asked to do?

Michael Lodato: Pardon me?

President Melcher: What they're wanting to do with these changes, by putting pipe in, you've got a problem with that?

Joe Harrison, Jr.: That's not going to affect him.

Michael Lodato: With that, no, that won't affect me. I'm on the other end. I'm on the high end.

President Melcher: No, I understand, but when you said it, it sounded like it.

Joe Harrison, Jr.: No.

President Melcher: So, that's why I'm –

Michael Lodato: Well, when you look at the plan, it's marked in red what they want to, what the adjustments are going to be. Mine is in black and white. They're not planning to do anything, but I've got water in my easement.

Commissioner Kiefer: I have a question.
Michael Lodato: Yes?

Commissioner Kiefer: Okay, I just want to make sure. Did you say that you do have a fence in the drainage easement?

Michael Lodato: I do.

Commissioner Kiefer: Okay, but isn’t that against our county code to have fences on the drainage easement?

Commissioner Ungethiem: Without a waiver.

Commissioner Kiefer: Without a waiver? I’m just asking a question, because it sounds like, I mean, I don’t know the situation as well as you do, but it sounds like that may be a benefit to you because the county could force you to move that fence off, because it is in the drainage easement. Am I not correct?

Michael Lodato: I understand.

Joe Harrison, Jr.: The thing is, all of these documents they’ve handed you are going to have to be more specific. You’ll speak with them about that. You’ve got to know what they want to do, as far as the waiver is concerned, or what they’re not going to do. As far as the encroachment agreement is concerned, it’s going to have to state what’s in the drainage easement, and what the encroachment would be that would be approved by this Board, if they consider it.

Michael Lodato: Okay.

Joe Harrison, Jr.: So, you can work with Mr. Mueller, you can work with them, and it sounds like you’re willing to see if you can get some common ground.

Commissioner Kiefer: Work with them.

Michael Lodato: Sure. I submit that my fence has absolutely no impact on the drainage.

Joe Harrison, Jr.: That’s fine.

Michael Lodato: Where I am. If there’s arrangements made to work with the low place in there, then I submit that we ought to take a look at just removing my property and get a waiver, as far as the easement is concerned. Just waive it.

Jeff Mueller: We’ve talked, I’ve talked to Mr. Lodato, and, you know, what the issue is he’s supposed to have a swale across of his whole back yard. Probably on part of his back yard the swale isn’t necessary, but on part of it, it is.

Michael Lodato: Right.

Jeff Mueller: So, that he’s got someplace, and it’s on the south end, so that the low spot where his sump kicks out. So, it might one of these issues where the waiver would say that you’re going to create the, you’re going to dig the swale for say 20 feet, and then you’re going to waive the rest of it. Then the fact that he’s on the very top end, a fence isn’t really a big issue, so we could probably live with an encroachment of the fence when nothing’s going across there. But, those kind of deals are the kind of things that Mr. Lodato is pointing out that have to be worked out.

Commissioner Kiefer: Right, right.

Jeff Mueller: Then so that everybody has, walks away comfortably on this situation.

Michael Lodato: Yeah, I’m certainly willing to do that.

Jeff Mueller: Yeah.

Commissioner Kiefer: Thank you so much.

President Melcher: I wouldn’t sign anything either. We’ve got one more question for you.
Madelyn Grayson: Mr. Lodato, on those minutes you were referring to of November 4th and 11th, what was the year?

Michael Lodato: This is, I can give it you if you would like it. I marked it.

Jeff Mueller: No, those are my comments. Those are a comments sheet.

Michael Lodato: Okay, whatever they are. This is Blue Heron. This is off the website.

Jeff Mueller: That is—

Madelyn Grayson: Okay, they’re not the minutes then?

Jeff Mueller: -- something from the Surveyor’s Office.

Michael Lodato: Okay.

Jeff Mueller: The Auditor has the actual minutes of the meeting.

Michael Lodato: Okay.

Jeff Mueller: Okay?

Madelyn Grayson: Okay, thank you.

Commissioner Kiefer: Madelyn knows her minutes.

President Melcher: Stepped on her territory. Next, anybody? Now is not the time to be laying back.

Commissioner Kiefer: Okay, I made a motion earlier, but I don’t think we ever got a second.

Commissioner Ungethiem: I will second, and let me clarify your motion. The three items that are in hashed, red on this drawing that was submitted by Morley and Associates are the three that we’re going to—

Commissioner Kiefer: Authorize.

Commissioner Ungethiem: --authorize Jeff and John to approve without coming back to the Board to do that. Is that correct?

Commissioner Kiefer: Correct.

Commissioner Ungethiem: Okay, I second that motion.

President Melcher: Okay, did you have a question?

Jim Morley, Jr.: No, that would be great. I just, I was going to try to provide some insight to maybe some comments.

President Melcher: Let us vote on this, then you can. Just stay there.

Jim Morley, Jr.: Sure.

President Melcher: Okay, let’s have a roll call on this one.

Madelyn Grayson: Commissioner Ungethiem?

Commissioner Ungethiem: Yes.

Madelyn Grayson: Commissioner Kiefer?

Commissioner Kiefer: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes, so it passes.

(Motion approved 3-0)
President Melcher: Okay.

Jim Morley, Jr.: Thank you for that, that helps us.

John Griese: Thank you.

Jim Morley, Jr.: I just wanted to touch base, by all means we will get all of the detailed information to Mr. Lawson for that pipe. That’s something we’ll have to get with Joe and Jeff and John on first. I was looking at Joe when I said it. So, we’ll have full details on what that looks like before it’s ever built, because they’ll need that before it’s approved. So, totally not a problem. Mr. Anslinger had talked about a portion of his lot, when we were out there I didn’t see a drainage problem. I’m sure there is one, if he says there’s one. We’ll go back out and take a look at that. It was never our intention to skip anyone. We went out there and looked and tried to find places where we could see that there were drainage problems and attack those places. You know, he knows his ground a lot better than I do, so we will take a look at his lot again, and get a little more detailed information and maybe we can talk with him and find out exactly what would help him out. Then, on Mr. Modono, if I’ve got that right?

Joe Harrison, Jr.: Lodato.

Jeff Mueller: Lodato.

Jim Morley, Jr.: Yeah, to be honest with you, he was at the top of the hill, with a fence, and we didn’t, when we were there we didn’t see a drainage problem, so we thought he would want to be left alone, and the fence. I apologize for making that assumption. He had a fence in the drainage easement, we figured, I thought a person would want their fence left alone, so, we said encroachment agreement to leave your fence there. I thought, top of the hill, wouldn’t want a big ditch in his back yard, so, leave as is. My bad. I’ll own that. So, we can work with him and we can put a ditch through the backyard or move the fence or whatever we’ve got to do. I mean, there was never an intention there to leave somebody short. I mean, after doing a half mile of ditch work, what’s another 100 feet? I mean, you know, I mean, there was never an intention there to leave somebody short. The one we just didn’t see when we were out there, and the other one, I made the assumption that at the top of the hill with a fence all the way to the back property line, that he would want to be left alone. I apologize for that assumption.

President Melcher: Well, I think—

Commissioner Kiefer: Will you get with…oh, I’m sorry. Go ahead.

President Melcher: I think in this case, you’re not going to be able to do that anymore out there.

Jim Morley, Jr.: I’m learning that one.

President Melcher: If you’re not sure on something, I would knock on their door. I mean, that’s the only way we’re going to get this done now.

Jim Morley, Jr.: I apologize. I’ll own that one. That was my fault.

President Melcher: No, I understand, you know.

Commissioner Kiefer: And you guys are going to get with Chris Wischer to sharpen up the language that’s satisfactory to the County Attorney then?

Jim Morley, Jr.: Yeah, and we can, instead of sending you, and, again, I apologize there again, that wasn’t meant to be a slight, we were just trying, we were trying like the dickens to get things signed and back here before this meeting, because at our last meeting we talked about trying…so, we were trying to do what we could do. We are happy to sharpen those up, and submit those to Mr. Mueller.

Joe Harrison, Jr.: Ahead of time.

Jim Morley, Jr.: Ahead of time, so we won’t send anything else out. We’ll submit those, Mr. Harrison, do you want a copy of those also?
Joe Harrison, Jr.: Send them to him and he’ll send them to me.

Jim Morley, Jr.: Okay. Whatever, we’ll sharpen them up and then once they’re sharpened up and you all are okay with them, then we’ll send them out.

Commissioner Kiefer: Thanks, Jim.

President Melcher: Okay.

Jeff Mueller: Well, while we’ve got some folks here, could we go through just a couple things that might help, some explanations?

Commissioner Ungethiem: Jeff, before you do that—

Jeff Mueller: Okay.

Commissioner Ungethiem: -- let me make sure. You’re going to have some work going on now?

Joe Harrison, Jr.: Well, assuming they—

Commissioner Ungethiem: Assuming they get it approved, you’re going to have some work going on now. Chances are vegetation is not going to happen between now and January-February, which will leave some ground bare over the winter. Do you plan on covering that with sod? Or do you plan on covering that with straw? How do you plan on handling that?

Jim Morley, Jr.: To date what they’ve done is where there have been sprinkler systems that would keep the sod alive, and they’ve had a sodded yard, they’ve come back in and, I’m pretty sure this is right, pretty much everywhere put sod back. So, like along that French Drain—

Alan Bosma: 95 percent is sod.

Jim Morley, Jr.: The reason we need a French Drain there is because there are so many sprinklers dumping in there. So, I’m assuming the majority of those yards would get sodded back.

Commissioner Ungethiem: Okay.

Jim Morley, Jr.: Anywhere where there was not a sprinkler system to keep the sod alive, or there was not an existing sodded yard, they put down seed and then they put down an erosion control blanket on top of it. So, it would either be sod or erosion control blanket, one of the two.

Commissioner Ungethiem: Okay, I just wanted to make sure we got it covered so we minimize the run off.

Jim Morley, Jr.: Yeah, we’re trying to minimize the erosion, because I’m assuming that Jeff and John will come out for a walk through in the spring also, and any erosion that’s occurred over the winter, I’m assuming we’ll have to fix, or they’ll have to fix. So, yeah, we don’t want there to be erosion either, because it just means we’ll have to do it twice.

Commissioner Ungethiem: Right, okay. Thank you.

Jeff Mueller: Okay, just a couple of comments. First of all, on the waivers, as we talked about, we want the waivers to be specific, because we want people to understand that instead of a swale across their whole back yard, they’re only going to have a swale on half of it. Or they’re on the top of a hill, it’s going to sheet flow, so they don’t need a swale. We want people to understand that. So, that language is going to be specific in the waivers. Second of all, we also want people to understand that, well, I don’t want my yard turned, tore up, so I’m more than willing to sign a waiver. Well, that will be fine, except that if the guy above you, if his water doesn’t drain, I’m sorry, they’re going to have to fix the swale in your yard, even though you don’t, you know, if there’s a drainage easement and it’s supposed to have a foot-deep swale, you know, that’s what we’re going to ask for, because just because you don’t want your nice yard tore up, there was supposed to have been a swale there to begin with. So, sometimes some people are going to think
they're going to get a waiver, and we may say that's not a good idea. As far as the encroachments, and, Joe, I think you brought up a good point, and it's what we're trying to make people aware of is that when people come in for a certification, when these subdivisions come in to be certified, and Jim Morley signs and says the drainage system is in effect and it's working, it can’t be working when there's a fence in the easement. Or it can't be working when other things are, and it's solely the permission of the Board to give permission to have things within those drainage easements. Also, the encroachments give you protection when you sell the property in the future, because if you have a fence in a drainage easement, and someone comes and buys the house and says are you in compliance, and all of a sudden you're not, then they can say, well, you need to move that fence. Or you need to file an encroachment. So, if you're not in compliance, you're getting a chance to get in compliance by having an encroachment agreement by the Board right now signing a piece of paper saying it's okay to have that landscaping, or it's okay to have this or have that in a drainage easement, because that encroachment will be filed, it will be part of a public record. Then, like I said, it will help you all in the future when you're selling your homes. So, I do, you know, we're the ones pushing the encroachments, and there's a reason for that. Okay? So, I just wanted everybody to understand that. I mean, Mr. Harrison, do you think I've summed that up pretty good?

Joe Harrison, Jr.: I think you did a great job.

Jeff Mueller: Well, thank you. I mean, the prime conditions and restrictions are a different issue, but I'll give a prime example, we had someone in my subdivision that put an out building and they're not allowed, and when we told them to take it out, they said forget it, and then when somebody came to buy it, the Realtor checked in and said, are you allowed to have that out building? We said, no, and magically the building disappeared before the house got sold. So, that is in your protection. But, nobody's trying to force anything, at least from the county, we just want you all to understand what paperwork you're signing. Okay? So, that's all we're after.

Jim Morley, Jr.: And I can tell you we're working towards the same goal. There's, I mean, with the amount of work that's been done already, I think that's a good faith effort to show that we're not trying to pull anything over on anybody or anything like that.

Jeff Mueller: I did want to note, Wayne, I can't believe that you're back there being all nice and quiet. Wayne Fehd is an adjoining farm owner, and one of the issues that he's brought up to me was that—

President Melcher: He's coming.

Jeff Mueller: Okay, come on up, Wayne.

Wayne Fehd: Really? Do I have to?

Jeff Mueller: Yeah, come on now. You're not bashful. Come on. I want him, he's got one other thing that he wants to point out.

Wayne Fehd: I'm Wayne Fehd. I live at 13040 Green River Road up at Daylight, Evansville, Indiana. My property, I've got a strip of ground on Millersburg Road, 5320 Millersburg Road, and the west line abuts up to their east line. There used to be a ditch down through there before they bought it. There was a clump of trees on the south end and the water used to go around the clump of trees when I farmed it. It would come around the trees and went down the ditch, went down to the north end. I put a pipe in the ditch there about, oh about four foot in diameter, where we could drive across the ditch to get over to the field where they're building houses now. When they come in and did the earth work, they leveled their lots all off on the west of me, level with my field, and when it rained the water all come flushing off them lots. Their storm drains, the siltation was so deep that it was over the top of the storm drain pipes that was supposed to be going in that ditch between of us. It was a mess. I called and asked for to get it fixed. I talked to Mr. Bosma I think three times, the third time he hung up on me. I asked him to get that ditch down through there back in position so that the water would quit flushing out my field and killing my corn and bean crops. So, a week ago I took a backhoe and started down through there and I'm digging a ditch on my side to take the water down there. I'm not an engineer. I don't know if I'm getting the ditch wide enough and deep enough to do the job, but if it's
not, I’m expecting them to have their ditch down along that line there, that it will carry that water off that subdivision northward to the ditch, and not flush out across my field. Then going north they’ve got a road entrance there to go eastward, and it protrudes out into my field where the ditch is not there even at all anymore. Then they go north right there by that retention pond, they’ve got a couple of lots there and the water is flushing off of there, and there’s no ditch there for the water to go to the north, to carry the water to the north and flushes out the corner of my field there. So, I talked to Jeff about what needs to be done there.

Jeff Mueller: Let me add a couple of things for the record, and also explain something a little bit farther. So, one of the things that Mr. Fehd is saying is that there is a swale, sorry, Madelyn, you’re going to have that on your recording, aren’t you? There is a swale that goes along the east side of lot 15, 16, 25, 26, 35 and 36. Now that swale wasn’t in existence until this year. Mr. Fehd said that he hasn’t been out there since a rain has occurred, so that might be a situation that, and let me show you where that swale is, so, this swale here wasn’t in existence, and it is now. So, that was both ends of it. So, this swale hopefully will capture the water off of those lots. One thing that Mr. Fehd’s pointed out is that some of the folks on that lot, these lots back here, instead of having their gutters stop at the swale, they’ve continued the gutters all the way through and they’re discharging on his field. So, they’re encroaching in the easement, and they’re encroaching to the point that they’re taking the water over on his field, when the water was supposed to go in this swale. So, we’re going to identify those lots for Mr. Fehd so that they know that their water should be going in that swale and not in his field, which is what the plan was for this subdivision. So, the other issue that he brings up is along lots 46 and 47. Now 46 doesn’t have, it just has a drainage easement there, but 47 there was an existing ditch there, and it needs to continue to be cleaned out. It wasn’t a planned swale of the subdivision, but it was always there. It got silted up, that's what he's saying, so, the commitment has to be, and its part of the commitment of the subdivision owners that they’re responsible for drainage on their property. So, the folks on Lot 47 need to understand that they need to keep this ditch open between Mr. Fehd and them, as it existed before, so that the water...he understands that water is going to come on him, but he only wants it to come at certain places, like it did before. That's all your asking for, right, Wayne?

Wayne Fehd: Right.

Jeff Mueller: Not that his whole field gets flooded out all different places and he loses his crops.

Wayne Fehd: That’s right.

Commissioner Ungethiem: Jeff, is all of that water supposed to run north into that retention pond?

Jeff Mueller: Yes.

Commissioner Ungethiem: North of Lot 47?

Jeff Mueller: Yeah, so, I don't know. So, we might have to send a few nasty-grams out to some folks telling them that, you know, hey, you need to cut your drainage pipes off and let them go into the ditch, the swale where they were supposed to go.

President Melcher: They probably don’t even know they did anything like that.

Joe Harrison, Jr.: They probably don’t.

President Melcher: They really don’t know.

Jeff Mueller: They may not.

President Melcher: Because I wouldn’t know.

Jeff Mueller: Yeah, so, anyway, that’s Mr. Fehd’s request in a nutshell. He had a whole laundry list of other things that don’t concern this subdivision. Wayne never comes in with a short conversation with me, but, anyway—
Wayne Fehd: You’ve got a lot of work to get done.

Jeff Mueller: So, I mean, you know, I showed him pictures of this swale and he told me, he said, you know, we had a big rain this spring and I didn’t see it. So, he said it may be working. So, but it’s not going to work when people’s, you know, gutters are bypassing it. So, we’ll check that, we’ll check out those gutters for him, and like I said, we’ll also make sure that Lot 47 knows that they’ve got to help, work with him on keeping that ditch open.

President Melcher: Okay.

Jeff Mueller: Okay? Is that fair enough, Wayne? With what we’ve talked about?

Wayne Fehd: We’re growing corn and beans, not rice.

President Melcher: Did you want to speak back there?

Tom Bartley: Yes, sir.

President Melcher: Okay. Thank you, Mr. Fehd.

Tom Bartley: I’m Tom Bartley, 5131 Osprey Circle, Lot 35, which adjoins Mr. Fehd’s property. Two concerns, or one that I want to address, we’ve lived there five years, and I know there’s been an issue with the water drainage he’s saying swells on to his field. I went out there and took video tapes during a heavy downpour, and did not see the water swelling after they did the new, put the concrete ribbon in there. So, anyway, on behalf of Bosma, I would have to say that that problem is resolved. The ditch, the issue with the downspouts, that’s not my lot, but some others and I’m aware of that, but my concern is the ditch that he’s digging is literally within an inch of the property line, and my concern is erosion and how close is he allowed to have that ditch to the property line?

Joe Harrison, Jr.: Mr. Mueller will have to look at that.

Tom Bartley: Okay, well, he’s in the process of digging the ditch now.

Joe Harrison, Jr.: Well, he’ll have to take a look at it.

Tom Bartley: Okay.

Jeff Mueller: If it’s on his property.

Joe Harrison, Jr.: Yeah, he can do that, but as far as erosion is something that he’s going to have to take a look at.

Tom Bartley: He’s digging it straight down on one side.

Joe Harrison, Jr.: Okay.

Tom Bartley: On my, which will be mine, he’s not got there yet, but my concern was the erosion with it.

Joe Harrison, Jr.: He’ll have to take a look at that.

Commissioner Ungethiem: Well, if the swale works, he shouldn’t have to dig the ditch.

Joe Harrison, Jr.: Right.

John Stoll: One thing in regard to that new swale, it sits on Ag ground. That is, as far as I know, exempt from everything relative to erosion control measures. That only deals with development.

Joe Harrison, Jr.: Oh, that’s right.

John Stoll: So, with this being an Ag use—

Joe Harrison, Jr.: Yeah.

John Stoll: -- I don’t think there’s going to be any erosion enforcement that the county can do on that new swale that Mr. Fehd is cutting in.
Joe Harrison, Jr.: But, the swale shouldn’t, that Mr. Bosma has put in, should relieve some of the issues.

John Stoll: Intercept the water. I haven’t seen what’s being dug out there, but, I guess, if it turns around and it’s being cut vertical near the property line, that may be a civil matter if it’s damaging the other properties. But, I just wanted to point out the erosion control side of things, it’s probably exempt from everything.

Joe Harrison, Jr.: Okay.

President Melcher: Okay, is there anybody else that has anything this evening? Because now is the time while we’re here. Okay. Any Commissioner got anything?

Joe Harrison, Jr.: Do we got ditch maintenance?

President Melcher: Yeah, but I’m trying to get through.

Commissioner Ungethiem: I think we’re done with Blue Heron.

President Melcher: Okay, then we’ll move on.

Michael Lodato: Can I ask one question?

President Melcher: Go ahead and come on up.

Jeff Mueller: Come on up, Mike.

President Melcher: Now is the time to ask.

Jeff Mueller: Restate your name for the record too.

Michael Lodato: Okay. Michael Lodato. It’s L-o-d-a-t-o, 8438 Pelican Pointe, Lot 62. In the earlier presentation that Jeff made there was a lot 75 something, and there was a request to vacate an easement, a drainage easement, a property from a drainage easement.

Jeff Mueller: Oh, that’s because his house is actually in, a portion of his house is in the drainage easement.

Michael Lodato: Right, but my question to the Board is, what is the legal process to request that a portion of the drainage easement be vacated?

Joe Harrison, Jr.: Well, that’s a common, not a common request, but I think we had one, there’s one that’s coming—

Madelyn Grayson: There’s instructions, detailed instructions on the Auditor’s website.

Joe Harrison, Jr.: Was it Wisteria, no, that’s encroachment.

Madelyn Grayson: No, The Stables.

Joe Harrison, Jr.: But, we have them from time to time. You’ll just have to get with Mr. Mueller’s office and there will be a petition filed with the Drainage Board.

Michael Lodato: Okay, but the reason I ask is—

Joe Harrison, Jr.: Or the Commissioners.

Madelyn Grayson: Yeah.

Michael Lodato: -- it may well be part of the resolution of my property.

Joe Harrison, Jr.: And, you’ll have to work with him, but that, from time to time drainage easements are vacated.

Michael Lodato: Okay, that’s why, I didn’t know if I had to file something.

Joe Harrison, Jr.: Yes.

Michael Lodato: Or if I could just talk to you about it.
Joe Harrison, Jr.: There’s forms and we do a couple a year.

Jeff Mueller: On one particular house, we required a vacation and not an encroachment, because a portion of the house was actually encroaching in the easement.

Michael Lodato: I understand.

Jeff Mueller: So, we wanted that easement vacated. We wanted that portion of the easement vacated. It made it a lot cleaner.

Michael Lodato: Yes. I’m raising the question for my own property as a possibility.

Jeff Mueller: Yes, okay.

Michael Lodato: Okay, thank you.

President Melcher: Thank you. Okay, we’ll go ahead and move on.

Jeff Mueller: Everyone’s got my name and address and knows where the drainage plans are, and people have been up to see me, and John and I are around, except for next week.

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### Ditch Maintenance Claims

Jeff Mueller: Okay, ditch maintenance claims. You’ve got ten claims for a total of $22,489.88. I do want to note a couple of things on that. First of all is on Barr Creek, the work on that was supposed to be $5,000, but when they got out there and worked on it, we had about three or four trees in the creek. So, we authorized, or we gave verbal approval to spend the extra thousand to get the trees out. So, the total work would be six instead of five, and I’m asking for payment at 85 percent of that tonight, at $5,100. But, like I said, it was one of those where I thought it was a pretty much no brainer to get the trees out while they were there.

President Melcher: So, you need a motion on that now?

Jeff Mueller: Yes, I think we do.

President Melcher: Okay.

Commissioner Ungethiem: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion passes 3-0)

Jeff Mueller: The second thing is, on those overall, is that on Maidlow you’ll notice that there was an invoice for just under $12,000. On Maidlow, it’s where the creek, it’s on Dave Hopfer’s ground, Bruce, the creek does a 90 degree there, and years ago they did a repair job where they put tires in to hold the bank, and then they wired them together. It worked good for about 25 years, and then the wires started corroding and we started losing trees. Be it said that that’s no longer an approved method of erosion control, but it did work at the time. So, we went in—

Commissioner Ungethiem: Hey, 25 years.

Jeff Mueller: -- and fixed the problem, but in the process we’ve got some tires to get rid of, and they’re going to be picking those up tomorrow. But, that was not part of the original deal, so, Linda’s putting some numbers together, but we’ll probably be coming in with an invoice of about a thousand dollars to get rid of those tires. We will be doing it the correct way. Someone will be coming in from an environmental firm, picking them up and hauling them off. So, and better to do that than have them float downstream.
President Melcher: If we had known that sooner we could have took them to Tire Amnesty Day.

Jeff Mueller: Yes, and we looked at that, and there’s a Tire Amnesty Day, but we would have to store them in the county—

President Melcher: No, no. I understand.

Jeff Mueller: I mean, we did look through all of those, and unfortunately—

President Melcher: Because you would be surprised what the city brings and other people bring.

Jeff Mueller: And, Joe Ballard had given me, told me they had one once a year, but to have them stored for that long just wasn’t going to be worth it.

President Melcher: No, then people are going to be complaining about mosquitos.

Jeff Mueller: Yeah, yeah.

President Melcher: Okay.

Jeff Mueller: So, anyway, I do want to point out that we’ll be coming in for that, but other than that, if you would, I do ask for your approval of the overall invoices.

Commissioner Kiefer: I’ll make a motion to approve.

Commissioner Ungethiem: I’ll second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion passes 3-0)

President Melcher: Thank you.

Jeff Mueller: Thank you.

**Cancellation of the December 20, 2016 Drainage Board Meeting**

Jeff Mueller: Bruce, did you want to talk about December 20th?

Commissioner Ungethiem: If you would like to cancel that meeting, then now would be a good time so we can make that part of the public announcement.

Jeff Mueller: We’ll have a meeting, you know, there’s not going to be a whole lot happening between then and January 3rd. I don’t have a problem with that. I know Joe will be very upset.

Commissioner Kiefer: I’ll be glad to make a motion to cancel that meeting.

Commissioner Ungethiem: I’ll second.

President Melcher: I’m glad I didn’t have to do that, because I’m not going to be here. Well, I’ll be trying to get here, but it doesn’t work for me, usually I’ve got hung over in Atlanta or something. Okay, all in favor say aye.

All Commissioners: Aye.

President Melcher: It passes.

(Motion approved 3-0)

Commissioner Ungethiem: We just need to make a note to put that into the public notice that there will be no Drainage Board meeting on the 20th.

President Melcher: I know she’s got that.
Jeff Mueller: If you’re waiting on Madelyn, you’re backing out.

President Melcher: I was getting ready to tell you.

Commissioner Ungethiem: I know, she’s—

Madelyn Grayson: Hey, I’ve got to do County Council in the morning.

Commissioner Ungethiem: --usually ahead of us anyway.

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Jeff Mueller: I have nothing further for the Board.

President Melcher: Okay, if there isn’t anything further to come before us this evening, I will entertain a motion to adjourn.

Commissioner Ungethiem: So moved.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion passes 3-0)

President Melcher: Thank you.

(The meeting was adjourned at 6:26 p.m.)

Those in Attendance:

Stephen Melcher
Jeff Mueller
Chris Wischer
John Griese
Michael Lodato
John Stoll

Joe Kiefer
Joe Harrison, Jr.
Jim Morley, Jr.
Bruce Lawson
Wayne Fehd
Others Unidentified

Bruce Ungethiem
Madelyn Grayson
Alan Bosma
Charles Anslinger
Tom Bartley
Members of Media

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VANDERBURGH COUNTY
DRAINAGE BOARD

_______________________________
Stephen Melcher, President

_______________________________
Joe Kiefer, Vice President

_______________________________
Bruce Ungethiem, Member

(Recorded and transcribed by Madelyn Grayson.)