The Vanderburgh County Drainage Board met in session this 18th day of October, 2016 at 4:58 p.m. in Room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: I guess we’re all ready now? If we could just rise for the Vanderburgh County Drainage Board agenda, October 18, 2016. It’s about five till five.

Pledge of Allegiance

(The Pledge of Allegiance was given.)

Approval of the October 4, 2016 Drainage Board Meeting Minutes

President Melcher: It looks like all of our audience has left.

Commissioner Ungethiem: I make a motion to approve the previous minutes.

Commissioner Kiefer: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye. So moved. (Motion passes 3-0)

Spaetti-Meyer Drainage Obstruction Petition

President Melcher: Okay, you’re on.

Jeff Mueller: It's all me?

President Melcher: Yep, it's all you now.

Jeff Mueller: Alright. I’m glad to see we got one of our high school kids to stay. You have before you an obstruction petition. The petition to remove an obstruction from a natural surface watercourse or drain was filed with the Vanderburgh County Auditor on October 12, 2016. The petition is from David and Kimberly Spaetti of 9315 Liberty Court, Evansville, Indiana. The petitioner is petitioning the Drainage Board to order the removal of an obstruction alleged to exist at 9290 Liberty Court, which is an adjoining landowner and neighbor. The petitioner names the adjoining neighbor and specifies an obstruction of a soil berm with structure. The United States Postal Service receipt of a certified mailing was enclosed with the petition. That mailing is required notice, by the petitioner, to the adjoining neighbor upon where the alleged obstruction is located, requesting the adjoining neighbor to remove the alleged obstruction. The original copy is available, and a copy has been supplied to you for your review. Along with the petition, a filing fee of $100 was received. Under I.C. 36-9-27.4, a person who owns a tract of land may seek the removal of an obstruction from a drain or a natural surface watercourse located outside the person’s tract, in order to promote better drainage of the person's tract. If the owner of the land on which the obstruction is located, upon request, does not remove the obstruction, the person seeking the removal of the obstruction may file a petition asking the Drainage Board to remove, or authorize, or order the removal of the obstruction. For the purposes of the petition process, a drain is defined as a mutual drain which is located on two or more tracts of land that are under different ownership, was established by the mutual consent of all owners, and was not established or made subject to any drainage statute. A natural surface watercourse is defined as an area of a surface of the ground
over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction and channel. Based upon aerial photography, it appears that this petition addresses an alleged obstruction of a natural surface watercourse. Now, before I go on, I wanted to point out a couple of things. The Spaetti’s did file this obstruction petition to the Meyer’s. I called Mr. Meyer and talked to him. Mr. Meyer said that he had a plan. He should have notified the Spaetti’s within ten days of his plans. He didn’t, but he said he does have a plan. I said, when are you planning on moving forward with what you’re going to do, which is to create a ditch? He said, well, I was hoping to get the work done this coming weekend. Okay? So, I kind of wanted to give you that update to kind of let you know where we’re at on this, but, apparently, from what I understand, this has been going on for several months, and the Spaetti’s finally got tired of no action on Mr. Meyer’s part, which is why they filed the petition. I only bring that up because I am hoping that before we get all involved in this process of having a hearing and everything, that we’ll go out there in a week or two and Meyer will have this problem solved, but I don’t see, since the Spaetti’s actually filed the petition, I kind of felt like, well, if he’s filed it, I’ve got to at least bring it to you all for, you know, to get the clock running. Okay? Mr. Harrison?

Joe Harrison, Jr.: As far as, at the next meeting, can you report back to us? If nothing has been resolved, then you’ll have to do your investigation and we’ll have to set it for a hearing.

Jeff Mueller: Yeah, we can do that. I was hoping, you know, I was thinking I’ll wait until after this weekend to see if Mr. Meyer follows through with the work he said. So, that way we could do that.

Joe Harrison, Jr.: Or, do you want to set it for a hearing now, and then we’ll have a hearing date set, and if it’s necessary to have it, we’ll have it?

Jeff Mueller: As you’re aware, the hearing can’t be set for at least 30 days—

Joe Harrison, Jr.: Right.

Jeff Mueller: -- and within a 90-day time period. So, we could set it off into the distance, and like you said, hopefully, if it got resolved then we could just say everything is resolved.

Joe Harrison, Jr.: Why don’t we do this, why don’t you just come back to the next meeting on November 1st, and we’ll set it for a hearing on that date at that time, if we need to. We can set it sometime, I guess it would be December.

Jeff Mueller: Okay, the only other thing is though, we need to move through some of my other language, so that you guys will accept the petition to give me permission then to therefore go on the necessary property.

Joe Harrison, Jr.: Sure.

Jeff Mueller: So, that I won’t be committing a trespass.

Joe Harrison, Jr.: That’s fine.

Jeff Mueller: Okay. Alright, so I’m going to read into the record some additional language then. Should you accept the petition, that will enable the County Surveyor, a member of the Drainage Board, or their authorized representative to enter onto private property to conduct an investigation, specifically as to the alleged obstruction, at the location only. An oral or written notice will be given the owner of the property where the alleged obstruction exists prior to any entry upon the property. After the investigation, a written report would be made to the Drainage Board, then the Drainage Board is obligated to hold a hearing, during which the petitioner, David and Kimberly Spaetti, can present their information regarding the alleged obstruction, and the respondent, Kirk and Erin Meyer, may reply. The Board would be obliged to come to a finding and make a determination as to whether an obstruction does exist, and if it does, that it be removed at the expense of the person who put the obstruction in the watercourse or drain. The required Drainage Board hearing must be held at least 90 days, but less than…..at least 30 days, but less than 90 days after the date of the filing of the petition. Which based upon the filing date of October 12, 2016, would require that a hearing occur between November 11, 2016 and
January 10, 2017. I know that January 10, 2017 sounds good to Joe. Based upon those dates, we have scheduled meetings on November 15th, December 6th, and December 20th, and probably a meeting in early January that the hearing can be scheduled at.

President Melcher: We could always call him back in.

Commissioner Kiefer: Hey, do we need a motion?

Jeff Mueller: I guess, the only thing I’m doing, is does the Board want me to investigate the obstruction?

Joe Harrison, Jr.: I think you do, but I would wait until after the 1st.

Jeff Mueller: You would wait till—

Joe Harrison, Jr.: After November 1st, unless you want to go out there between now and then, and you find out the plan is not working.

Jeff Mueller: Do you mean November 11th?

Joe Harrison, Jr.: I’m sorry. When is the next meeting? Is it November 1st?

Jeff Mueller: Oh, the next meeting would be…okay, yeah.

Joe Harrison, Jr.: It’s the first.

Jeff Mueller: So, what are suggesting, Mr. Harrison?

Joe Harrison, Jr.: Well, I was going to suggest that they go ahead and accept it today.

Jeff Mueller: Okay.

Joe Harrison, Jr.: And, if you come to the meeting on November 1st, you can report that they didn’t resolve anything and you’re going to go out and make your investigation, and you want the hearing set for whenever.

Jeff Mueller: Okay, so, I’m not going to make an official investigation before November 1st?

Joe Harrison, Jr.: I don’t think you should.

Jeff Mueller: Okay.

Joe Harrison, Jr.: I mean, unless you don’t have anything to do.

Jeff Mueller: I’ve got plenty to do.

Joe Harrison, Jr.: I mean, does that make sense?

Jeff Mueller: No, I mean, that’s why I’m talking about this up front, because, you know—

Joe Harrison, Jr.: I think that’s fine.

Jeff Mueller: So, your recommendation would be to hold off until the next meeting, but I can contact Meyer and say, have you got the work done?

Joe Harrison, Jr.: Yes, and if they accept it, that gives you the authority to go on to their properties and accept, and review the matter, but you’re not going to do that yet. You can always go out there and look around if you want, but as far as your formal investigation and your report—

Jeff Mueller: We’re not going to do that until after the next meeting?

Joe Harrison, Jr.: Right.

Jeff Mueller: When we have a better feel if anything got done or not? That’s your recommendation?

Joe Harrison, Jr.: Right.
Jeff Mueller: I’m fine with that, if the Board is.

Commissioner Ungethiem: Do you know if the plan that Mr. Meyer has to rectify this situation is acceptable?

Jeff Mueller: I haven’t been given any plan. My suggestion to him, as we have told people before is, get this worked out, because otherwise the Board is going to require you to hire an engineer and come in with a nicely engineered plan. And anything that you do for the Board is going to be more expensive than if you address this on your own. That’s what I’ve always told people, to try to get these things to work out. So, Mr. Meyer told me he was planning on digging a swale along his property line.

Commissioner Ungethiem: So, if we hold off on this till November 1st, can we give Mr. Meyer notification that he’s got until November 1st to clear this up or we will go forward?

Jeff Mueller: I could call him and tell him. I kind of already told him that, but I could certainly call him back and say, get this thing done before that meeting, because otherwise you’re going to be into a scenario that you don’t want to be into.

Commissioner Ungethiem: Yeah.

Jeff Mueller: We, Mr. Kiefer and Mr. Melcher have been through these things, and they have not been inexpensive for the people that we’ve ruled against, because, well, I think the swimming pool, I don’t even know how much that one cost. A couple of the others weren’t cheap either. So, you know, because we’ve required them to come in with an engineered plan that was stamped and follow through on it.

Commissioner Ungethiem: Those engineers are expensive.

President Melcher: Yes, they are.

Jeff Mueller: All except the ones that work for the county.

Joe Harrison, Jr.: Is there a motion to accept?

Jeff Mueller: Okay, so, what we’re going to do right now, is I am not making an official investigation. I’m going to contact Mr. Meyer and tell him he needs to get this done, because, if not, then at the next meeting you’re going to officially accept the petition, we’ll already be into the 30-day countdown, the 30-90-day countdown, and at that time you will give me authorization to go on the property, as I am allowed to do under the code and I am not considered trespassing at that point.

Joe Harrison, Jr.: So, we’re going to hold off on accepting it now, but you can still talk to him and do what you’ve got to do.

Jeff Mueller: Okay. That’s fine. That’s why I wanted to bring this before the Board. I didn’t want to be making this...that’s my preference too, but, I didn’t feel like it was my call.

Joe Harrison, Jr.: So, they’re not going to do anything right now.

Jeff Mueller: You guys aren’t.

Joe Harrison, Jr.: Right, they’ll just wait till November 1st and see if you’ve worked any—

Commissioner Ungethiem: Do we need a motion to delay?

Joe Harrison, Jr.: No. I don’t think you do anything.

Commissioner Ungethiem: Okay.

Jeff Mueller: Okay.

Violation Letters: Blue Heron and Trilogy North

Jeff Mueller: The next item, the violation letters on Blue Heron and Trilogy North. Based upon the letters that were sent to both parties, Trilogy North’s 30-day time period will be
up on October 24th, and Blue Heron’s on October 25th. At that time fines could be issued on both sites. I went by both sites yesterday, and there is work physically being done on both sites, though at this time I do not know if either site will meet the deadline for physical work to be completed. It’s further my understanding, on Blue Heron, that they may be making changes to the drainage plan, though we have not had any submittals to date. Also, that there would be a number of encroachment agreements that may be submitted, but we haven’t received those either. It would be my plan that we, and when I say we, that John Stoll and I would make a site visit on each of the sites shortly after the 30-day time period to give you an update, and we can come back at the next meeting and say it’s been six days past and they’re not done, so, you know, do you guys want to start, you know, fining them? We could have a typical fine letter written up with Mr. Harrison at that time ready to go, and you guys can make the decision on whether we’re going to follow through with those fines or not, but, we will make an inspection after those 30 days. With that said, we do continue to get phone calls on Blue Heron. There is a gentleman here, yes, that would like to speak to you. His name is Bruce Lawson. He resides at 7930 Pelican Point Drive, which is right at the entrance. It's on the corner of Millersburg and Pelican Point. I think he's got, I know some of the things he wants to address with you will depend on how Mr. Bosma might deal with that particular property probably. So, without further ado, Mr. Lawson?

Bruce Lawson: Thank you very much.

Jeff Mueller: You’re welcome.

Bruce Lawson: Good evening. I’m Bruce Lawson. I’m a new resident of Blue Heron. My wife and I just moved in there three weeks ago. We own the property at 7930 Pelican Point. It’s actually two lots. The first lot there at the corner of Millersburg and Pelican Point, and then the second lot we actually built a brand new home on the second lot, with the idea of using the lot closest to Millersburg Road as a buffer, and potentially to sell down the road, if we so choose to. On the very day that we were moving in there was heavy equipment that was brought on to our lot, our side lot as we call it, close to Millersburg Road, without our knowledge or consent, and they began digging away at the ditch, removing a great deal of our top soil that we own on that lot. I got out to the job site at about 1:00, and as eloquently as I could, asked the contractor to get his equipment off of my property. Then Mr. Bosma showed up, and he and I had a very long conversation. Mr. Morley showed up a bit later, and we all had an extended conversation, but I wanted to, I took photos, recent photos and I wanted to show you what they were doing to our property, again, without our consent. If I may, may I bring some photos? I have one other set, if you need it, another set.

Commissioner Ungethiem: We’re good.

Commissioner Kiefer: Thank you.

Bruce Lawson: In the first photo there, you will see the small stake, which is basically in the middle of the ditch. That’s my property line. As you can see, they started, in essence, digging away the side of my lot, again, without my knowledge or consent. When I asked them to stop, and when Mr. Morley came out, after our lengthy discussion, I asked them if there was an alternative to making that slope steeper and longer and more dangerous? Mr. Morley indicated that there was, that the use of a drainage pipe, rather than an open ditch would actually reduce the slope and reduce the depth of the slope, if you will. In the second photo you will see that the cut that they were working on is now very close to one tree, and as you, if you look down the length of my lot, he will eventually be taking out at least one or two more trees, and potentially damaging the other trees. The third photo in, you can actually see here the extent of the amount of dirt that they intend to take in order to make, it’s my understanding a pitch 3:1, I’m not sure what that means, but that’s what the contractor was telling me. You can also see in these photos the depth of the ditch, how far down they are going to have to go. My, in the fourth photo here, which is shooting back towards the entrance of Blue Heron, you can see the extent of the depth of what the final result will be of that ditch. I will tell you, after having lived there for just three to four weeks, there are a great deal of children that get dropped off and picked up at that location, which concerns me, obviously for the safety of those children if they start playing in and around that opening of that ditch. Then the last photo, basically shows the, a good
portion of our property that has not yet been excavated by the contractor. I just wanted to bring it to your attention, I did talk to Mr. Bosma and he did, that day, verbally say that he was willing to run a pipe from the existing pipe that you’ll see in the photos 100 feet down that ditch, and then cut the ditch back to make it an open faced ditch, if you will, along the rest of our property. One, I want to make sure that that is the proper approach to take, and that it does in fact take place, in essence, putting my dirt back. Because, in my opinion, and I’m not in real estate, but in my opinion, the way they intend to do it, had I let them do it this way, it would have reduced the size of my lot and reduced the value of that side lot, that my wife and I may very well sell down the road. So, I just wanted to bring that to your attention.

President Melcher: Any questions?

Bruce Lawson: I guess, my other question is, what is the course of Blue Heron out there, as far as getting, I know you said that the violation deadline is October 25th, there’s no way they’ll get done with all of this work, let alone the rest of the work in the subdivision by October 25th.

Commissioner Ungethiem: Jeff, I guess my question is for you, the original drainage plan in this area, what did it call for?

Jeff Mueller: I haven’t looked, but I’m assuming since they’re cutting a ditch to 3:1, that that’s what it is. I guess, to answer part of the question is, you know, we can’t rule on anything until we have something in front of us on a piece of paper to look at, which we keep hearing we’re going to get a piece of paper showing all of this stuff, and we haven’t yet. The only other thing would be, and I did talk with Mr. Stoll since I’ve talked to you would be, you know, the county kind of has a philosophy of leaving an open ditch, but I don’t know, John, if you want to speak to it or whatever, John wouldn’t be opposed to having a pipe in there, as long as there’s still a swale on top of it, you know, that it’s not filled up to the road bank. Depending on the length of the pipe, he might want some structures in there, but, John, do you want to address that a little bit?

John Stoll: One of the problems we see routinely when people pipe ditches is, it runs the water straight out to the edge of the road, and that’s what we don’t want. If there’s a swale over the top of this pipe, and like Jeff said, if there was a need to have an intermediate area drain, that would work, as long as they can do it and meet the drainage code, provide the proper cover and everything like that. So, like Jeff said, we need a plan, something that shows that it meets the code and it wouldn’t be a problem, but until we see a plan it’s hard to say for certain. We just know that we don’t want to see all of the water run right out to the edge of Millersburg Road, and invariably when pipes are put in incorrectly, that’s where all of the water goes. That’s where our biggest problems lie relative to people piping ditches alongside roads.

Joe Harrison, Jr.: So, if he wants to do something different from the open ditch, which is apparently what was planned, I mean, you don’t know for sure?

John Stoll: They said during the meeting that that was what they had planned to do, extend the pipe, but we don’t have a formal drawn up plan as of yet.

Joe Harrison, Jr.: Okay. Right, because that’s not what was approved originally?

John Stoll: Correct.

Joe Harrison, Jr.: So, that’s going to have to be brought before you?

Jeff Mueller: Uh-huh.

Joe Harrison, Jr.: What I will do tomorrow is, I’m going to call Chris Wischer, the attorney for Bosma.

Jeff Mueller: Yes.

Joe Harrison, Jr.: And maybe send him these photos and indicate that it looks like they’re going, he’s trying to do something that’s not in compliance with the plan. He needs to submit something to you asap.
Jeff Mueller: Well, there’s other things that they’re not doing.

Joe Harrison, Jr.: No, no, no, no.

Jeff Mueller: That aren’t being done for months.

Joe Harrison, Jr.: This is one of many.

Jeff Mueller: Right, but I know there were some other things, when we talked to Bosma and his partners about three or four weeks ago, we’re like, that’s all fine, guys, if you want to do these things, but if you want to do them you’re going to have to get them approved.

Joe Harrison, Jr.: First, before you do it.

Jeff Mueller: Well, or if they do them, it’s at their risk.

Joe Harrison, Jr.: Right, right.

Jeff Mueller: You know.

President Melcher: Well, they did this at their risk.

Jeff Mueller: Well, that or they may be following the plan, Steve. They may be following the true plan.

Joe Harrison, Jr.: But, after he talked to Mr. Lawson he’s suggesting to do something else, I doubt if that was in the plan.

Bruce Lawson: That is correct.

Joe Harrison, Jr.: Okay.

Bruce Lawson: I can tell you that Mr. Bosma said that in the original plan, to make it right, because it wasn’t right when he did it—

Joe Harrison, Jr.: To begin with.

Bruce Lawson: -- to begin with—

Joe Harrison, Jr.: Right.

Bruce Lawson: -- that it would be an open ditch.

Joe Harrison, Jr.: Right.

Bruce Lawson: But, in order for, what he told me that day, or his partner told me that day, in order for the open ditch to be done correctly, they had to go to the bottom of the existing pipe that’s under the existing entranceway, which as you can see is probably a good eight to ten feet down.

Joe Harrison, Jr.: Right.

Bruce Lawson: Which would extend the length of the slope. What I’m trying to avoid is such a steep, long slope that (1) makes it unmanageable to be able to cut—

Joe Harrison, Jr.: Right.

Bruce Lawson: -- and (2) I’m losing my property.

Joe Harrison, Jr.: No, I understand.

Bruce Lawson: So, what I would like to see is a pipe, but so that there is a natural swale, once the pipe is put in, once the dirt is put in over the pipe, so that there’s proper runoff from Millersburg Road and proper runoff from my property without it being too steep and too long.

Jeff Mueller: I don’t think we’ve got a problem with that.

Joe Harrison, Jr.: It’s just got to get reviewed and approved.
Jeff Mueller: Yeah.

Bruce Lawson: Correct.

Joe Harrison, Jr.: If you can provide maybe to Mr. Mueller your cell number or phone number or whatever.

Jeff Mueller: I've got all of his information.

Joe Harrison, Jr.: Then I can pass this along to his counsel. I just think it would be a good idea to get, sometimes when he gets involved things move a little faster.

Jeff Mueller: The only other question I can answer, Steve, without looking is that it might have been it was supposed to be a 3:1 ditch, like all of ours are, but maybe it wasn't supposed to be that deep, because I don't know when they put the entrance pipe in.

President Melcher: I don't remember anything that deep.

Jeff Mueller: The only other question I can answer, Steve, without looking is that it might have been it was supposed to be a 3:1 ditch, like all of ours are, but maybe it wasn't supposed to be that deep, because I don't know when they put the entrance pipe in.

President Melcher: I don't remember anything that deep.

Jeff Mueller: I'm getting older, but I just don't remember anything being eight to ten feet deep.

Jeff Mueller: Yeah, but, I mean, the end result is, I think, you know, it's, like we've told you before, and the reason we brought these issues up to you is we get a lot of complaints from this subdivision. I think we did the right thing, you guys did the right thing as a Board sending this subdivision a letter. There is some action being done, but there should have been action being done a while back, and we're going to keep on them. I think we're doing the right thing, from myself and John's standpoint.

President Melcher: It looks like we're going to have to get stricter on them.

Jeff Mueller: I'm sorry?

President Melcher: We're going to have to get tougher on them on this thing.

Jeff Mueller: Well, we've got it. We can start having him write a $100 check here shortly.

Commissioner Ungethiem: Per day.

Jeff Mueller: We've got the letter there, and October whatever it is I gave you earlier, that's when he can start writing us a check. So, and we've also withheld construction on his lots out there. So, I think, we've done a lot of things out there.

Commissioner Kiefer: But, Jeff, the bottom line is, right now you're waiting on something, some kind of plan or something in writing, on paper that you can approve?

Joe Harrison, Jr.: I think it's a lot of plans. He's waiting for a lot of stuff.

Commissioner Kiefer: Yeah.

Jeff Mueller: We got drawings awhile back with all kind of red on them saying, well, here's kind of our thought for this, and here's kind of our thought for that. It was kind of like, that's great, give us something on paper that says we're requesting this, or we're requesting an encroachment, or we're requesting the re-design of a ditch. We don't want to hear your thoughts, we want to see plans.

President Melcher: Okay, so you're going to get a hold of them tomorrow?

Joe Harrison, Jr.: I'm going to get a hold of his attorney, and I'm going to send him these photos, and I'm going to suggest that if he wants to, I'm sorry, I'm going to get hold of his counsel tomorrow, and I'm also going to suggest if he wants to get a hold of Mr. Lawson he can do that, or if he wants to call Mr. Mueller, or Mr. Stoll he can do that.

President Melcher: I think he ought to do all three. I think we ought to stay on top of this.

Joe Harrison, Jr.: Yeah, I agree.
Jeff Mueller: If you also remember, one of the things we approved at the last Drainage Board meeting was, when they do submit this, that they are also going to have to send a letter out to the folks out there in that subdivision so these people know.

President Melcher: That was going to be my second thing, he should have known this was going to happen before this happened.

Joe Harrison, Jr.: Well, you’re right.

Commissioner Kiefer: You can’t just show up with a piece of construction equipment.

President Melcher: That tells me he doesn’t respect what he’s doing out there with the people he’s selling homes to.

Jeff Mueller: Which gets back to one of the major problems is, if these guys would get this work done and get their stuff completed, then these homeowners wouldn’t be coming back complaining about things.

Commissioner Kiefer: Perhaps, Mr. Lawson, you could send Joe Harrison an e-mail of those photos, that might get a better copy than him trying to scan, or something, those printed copies.

Joe Harrison, Jr.: Oh, these will be fine. I think these will be fine.

Commissioner Kiefer: Okay.

Joe Harrison, Jr.: The main thing is just, he’s going to provide me with your number.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: I’m going to call his attorney tomorrow. I just, sometimes it moves a lot faster that way.

Jeff Mueller: Yeah, those are, you know, like I said, we’ll be out there to make the inspection, you guys will be able to start fining him $100 at that inspection, because there’s no way they’re going to meet that inspection date, because they’ve got stuff to submit, which we don’t have a Drainage Board meeting between here and then. So, there’s no way they’re going to meet that October date that I gave you.

President Melcher: No, but it’s sad it’s come to this point.

Jeff Mueller: I totally agree with that.

President Melcher: That makes me upset.

Jeff Mueller: The only other thing I would like to say is, we’ve got developers out there that are good developers that do things right, and sometimes they get drawn in because of people that don’t want to do things right, but I certainly wouldn’t want people to reflect that we’ve got some other good builders and developers out there that are doing things really good, but we’ve got to get some other folks to all play by the same rules. We’re headed in that direction, as far as I’m concerned.

Bruce Lawson: May I ask a question?

Jeff Mueller: Go right ahead.

Bruce Lawson: So, as a property owner, what rights do I have to ensure that the work is being done right? Relying on you all to be the police, if you will, of this project? Or, work with the County Auditor, or what? And, what right do I have to see what plans have been submitted?

Joe Harrison, Jr.: Well, as a property owner you’ve got a lot of rights. Again, there may have been some disturbance to your property, and that’s over and above what we’re talking about here right now. That’s something civil.

Bruce Lawson: So, if I’m not in agreement with the plan, do I have a right to keep them off my property?
Joe Harrison, Jr.: I don’t know what the plan says, as far as what easement rights they have or anything. I just don’t know that, but the one thing I’m sensing is that what he’s attempting to do is not in conformance with the plan that was originally submitted.

Bruce Lawson: Okay.

Joe Harrison, Jr.: When he spoke to you about the pipe. I doubt if that was in the plan.

Bruce Lawson: It was not.

Joe Harrison, Jr.: So, at some point there’s got to be an amended plan submitted, which has not been done, not only for that issue, he’s got other issues, that’s going to have to be submitted to this Board for consideration, and Mr. Mueller and Mr. Stoll will make some recommendations on that. Then, if it’s approved, then he’s got to comply with all of those requirements that are set forth in the plan. It sounds like to me that at least what he’s contemplating is a little different, but, you know, they can’t police something that has not been approved.

Bruce Lawson: I understand that.

Jeff Mueller: Let me answer a couple of your questions. The drainage plan that is approved right now is on file in our office.

Joe Harrison, Jr.: Yeah.

Jeff Mueller: It’s a public document.

Bruce Lawson: Okay.

Jeff Mueller: And you’re more than welcome to look at it. I’ll give you my contact information later on. I’m not even sure, we may even have it on, I can’t remember if we have it on the internet or not. We have some of them posted. To answer your second question is, they are required to come in and give us an engineering certification that the work has been completed, and we have not gotten that yet, which is obviously the reason why he is addressing some of this stuff. He’s supposed to give us a certification saying, yeah, it’s all done. So, we don’t have that right now, and we are pushing him on getting his plan either done, or if he wants to amend it. If he does amend it, we are requiring him to give a public notice to all of you in the neighborhood, so that when that plan comes forward, people will know that he has submitted an amended plan.

Bruce Lawson: And what the plan says?

Jeff Mueller: That, again, whatever he’ll submit will be in our office and will be available to be viewed by the public.

Bruce Lawson: Okay.

Jeff Mueller: We don’t want any secrets.

Bruce Lawson: Right.

Jeff Mueller: You know, so.

Bruce Lawson: Okay.

Jeff Mueller: Okay? You’re more than, I’ll give you my contact information, and you’re more than welcome to come see me anytime and we can talk, or whatever.

Bruce Lawson: Thank you very much.

Jeff Mueller: Okay.

President Melcher: Before this gets worse, is there anything we can do to speed that up, like something, send him another registered letter? You know, what’s he doing here and why?

Joe Harrison, Jr.: He’s on notice right now. I don’t know if we can do anything else, but, again, as I mentioned, I’m going to contact his attorney.
Jeff Mueller: We do have a hold on the remaining lots that he owns.

Joe Harrison, Jr.: Yeah, he can’t sell any lots or anything.

Jeff Mueller: So, he can’t sell any more lots. We did require him to put up $20,000 in cash—

Joe Harrison, Jr.: Escrow.

Jeff Mueller: -- on another deal.

Joe Harrison, Jr.: Right, and he still has a letter of credit.

Jeff Mueller: And he has his letter of credit, plus he’s in a 30-day window of saying that if he doesn’t meet it in 30 days that you can start fining him $100. So, I think we’ve got his feet held as close to the fire as we can get them, you know, that’s my personal opinion, but I think we’ve got him, we’ve got his attention. I don’t know how else to put it beyond that.

Bruce Lawson: May I say one other thing?

Jeff Mueller: Sure.

Bruce Lawson: I will say, just for what it’s worth and for the record, that my wife and I did receive in our mailbox, I believe it was last week, a notice from Mr. Bosma and Mrs. Bosma that, in accordance with the homeowners association by-laws, they’ve sold the allotted, or the number of allotted lots, if you will, that they had to meet at least 80 percent, which they have exceeded the sale of 80 percent, and they are attempting to relinquish all responsibility of the homeowners association by-laws to the neighborhood association itself. He’s requesting and pursuing individuals to assume positions on a homeowners’ association board to relinquish the responsibilities out at Blue Heron Estates. So, I don’t know how that plays into all of this, or if it does.

Joe Harrison, Jr.: That’s common.

Bruce Lawson: Okay.

Joe Harrison, Jr.: But, if you want to provide Mr. Mueller with a copy of that letter, it would probably be nice. He would probably like to see it. It really doesn’t, that is common.

Bruce Lawson: Okay.

Jeff Mueller: John tells me I do have, on our website, the drainage plan. He just looked it up on my website. So, you know, that’s something that we just started recently, so we don’t have a whole lot of drainage plans on there, but we have been putting them on there.

Commissioner Ungethiem: John, from a soil erosion standpoint, is what you’re seeing here a problem?

Joe Harrison, Jr.: I don’t think he saw it.

President Melcher: I was going to bring that up, because you’re always asking, we’re running out of summer.

Commissioner Ungethiem: It’s going to rain tomorrow evening.

Jeff Mueller: Tonight, 80 percent is what I understand.

President Melcher: I was going to bring that up last.

Commissioner Ungethiem: It looks like we need some protection there.

Jeff Mueller: There are some bales down towards the end.

Bruce Lawson: It has rained, and I have noticed erosion in what they’ve cut already on that slope there.
John Stoll: I would think, at a minimum, they need some sort of check dam to make sure they’re trying to contain the sediment within the area that they’ve excavated, but I have not been out at the site, so I can make the rounds and make that part of it.

Commissioner Ungethiem: Okay.

Jeff Mueller: Okay, anything else, Mr. Lawson?

Bruce Lawson: No, sir. Thank you very much. Thank you all.

President Melcher: Thank you.

Jeff Mueller: We’ll, you know, when we get something, we’ll review it, and we know what Mr. Lawson’s preference would be.

Commissioner Ungethiem: Jeff, how many more of these do we have in Blue Heron?

How many more property owners are going—

Jeff Mueller: Well, some of the property owners are content, I think are content with the way things are. The problem is that the drainage may not be in drainage easements. So, they’re going to have to give us some new easements. In some cases we’ve got encroachments, you know, air conditioners and stuff like that within the drainage easements. So, if the encroachments don’t cause us any problem, then they just need to file the paperwork to state, you know, hey, you guys are going to give them permission to have their air conditioner within an encroachment, you know, a drainage easement. Which on all of our encroachment agreements it says that even though the Drainage Board is allowing it, that should it ever be necessary to get in there, you know, it’s at their risk. So, some of those were paper issues, some of them are redoing of some ditches, and when I was out there I saw where at least two ditches had been, not counting the one along Mr. Lawson’s property, where they went back and, you know, worked on the ditches, because, you know, the water is not draining out of the backyards on some of these. So, those are probably some of the major problems out there. Like I said, he is out there doing some of the physical work now, which, you know, has been one of the complaints, but then the other part of it is the paperwork of creating new easements and getting encroachment agreements to us. As I stressed to him when we talked, guys, get out there and start talking to people. Get us some encroachment agreements, get us some easements going. Those kind of things are easy to be, I mean, relatively easy, you don’t have to hire, you know, a backhoe to do it, you’ve just got to get the paperwork in, but start processing some paperwork so that we can get these things taken care of. So, you know, and I know that probably on a few situations there are going to be some people that aren’t happy, because there’s some fences in easements too. It’s like, well, my fence isn’t causing any problem, well, not to you it’s not. We’ve been down this fence road one time too many, but it does get back to what we’re trying to stress, guys, build these things and get them done. When we changed the drainage code, one of the things we’re requiring, and one of the first subdivisions that is going to be coming through here shortly is a table of saying that before I build on lots five through nine, I’m going to have the ditch behind that house dug, and then when I get this one done, I’m going to have these done, but a schedule showing that you’re going to have things completed before certain things move forward. Because that’s what we really need, because what’s happened in some of these subdivisions is, there’s going to be a drainage swale back out there, well we build house A, it gets put in, it doesn’t go anywhere, then B gets built, everything gets built except there’s still an empty lot so it doesn’t get handled. It’s like, no, build it. Get done with it. That’s one problem. The other problem we have is sometimes when guys do it right, then they sell out lots to different people, and then, well, I’ve got some dirt here, oh, there’s a low spot back there, I’ll just throw it back there in the drainage easement. That’s the other problem that we get into. That gets back to, in my opinion, the developer, his responsibility doesn’t end when he sells a lot. They’re out there driving around, they need to be saying, hey, what are you doing? Get that dirt out of that easement, you know, I’ve got a letter of credit involved. So, but that’s what John and I have been working on is trying to get some of these, you know, we all know there was a problem in 2007-2008, but it’s time to address and move on. So, but, yeah, I think we’re going to have, I’m hoping that he’ll get a lot of these things done, and some of the people that are having problems out there now may not, when either the physical work is done, or because they know that they haven’t got a problem with that air conditioner or whatever in that drainage easement,
you know. So, we had one guy that couldn’t sell his house for a while because he had an air conditioner in a drainage easement. So, I think he got it sold and he wrote something in the agreement.

Commissioner Ungethiem: Okay.

Jeff Mueller: Okay?

### Ditch Maintenance Claims

Jeff Mueller: The only other thing I’ve got is claims. You have four claims for, let me get back to my notes, $15,306.02. One of those claims is $8,000 to the County Highway for the work they did on Aiken Ditch along Pollack Avenue. On that particular claim, you know, we usually pay 85 percent and then 15, I would recommend paying the full 100 percent. We, if something isn’t done right out there, we know where they are. There’s no sense in withholding 15 percent and having the county write two checks on that particular instance. So, I would recommend these for approval.

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

Commissioner Kiefer: Second.

All Commissioners: Aye. It passes.

(Motion passes 3-0)

### Public Comment

Jeff Mueller: I have nothing else.

President Melcher: That’s it? Anything else to come before the Drainage Board?

### Adjournment

President Melcher: I would entertain a motion to close.

Commissioner Kiefer: So moved.

Commissioner Ungethiem: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye. We’re closed.

(Motion passes 3-0)

(The meeting was adjourned at 5:38 p.m.)

### Those in Attendance:

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<tr>
<th>Stephen Melcher</th>
<th>Joe Kiefer</th>
<th>Bruce Ungethiem</th>
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<tr>
<td>Jeff Mueller</td>
<td>Joe Harrison, Jr.</td>
<td>Madelyn Grayson</td>
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<td>John Stoll</td>
<td>Bruce Lawson</td>
<td>Others Unidentified</td>
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<td>Members of Media</td>
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VANDERBURGH COUNTY
DRAINAGE BOARD

Stephen Melcher, President

Joe Kiefer, Vice President

Bruce Ungethiem, Member

(Recorded and transcribed by Madelyn Grayson.)