The Vanderburgh County Drainage Board met in session this 1st day of September, 2015 at 5:36 p.m. in Room 301 of the Civic Center Complex with President Bruce Ungethiem presiding.

**Call to Order**

President Ungethiem: I would like to call to order the September 1, 2015 Drainage Board meeting.

**Pledge of Allegiance**

President Ungethiem: I’ll lead us in the Pledge.

(The Pledge of Allegiance was given.)

**Approval of the August 11, 2015 Drainage Board Meeting Minutes**

President Ungethiem: Alright, I would like to entertain a motion to have the previous minutes approved.

Commissioner Melcher: So moved.

President Ungethiem: And second. All those in favor say aye.

Commissioner Melcher: Aye.

President Ungethiem: Aye.

(Motion approved 2-0)

**Construction in Floodway Permit-Big Creek/Pond Flat Main**

President Ungethiem: Okay, Jeff, construction in floodway, Big Creek.

Jeff Mueller: Alright, you do have in your packet, and I did pass the packets out this time, instead of waiting until the end of the meeting, a permit for Big Creek/Pond Flat Main. As you’re aware, this is similar to copies of the permits that the Drainage Board receives regarding any IDNR construction in a floodway permit in Vanderburgh County. However, in this case this permit was submitted officially by the Drainage Board, through the County Surveyor’s Office, for work to be done this fall on the Pond Flat Main or Big Creek, as the stream is known on ZSGS maps. So, we do have approval from IDNR. The work was bid this spring and is to start, pending the harvest, this fall. So, we’re ready to go there. Do you want me to keep rolling?

President Ungethiem: Do you need an approval for this?

Jeff Mueller: No, it’s just given to you so you know we got her.

President Ungethiem: Just a submittal that we’ve got that in place?

Jeff Mueller: Uh-huh.

President Ungethiem: Okay.

Jeff Mueller: Okay?
President Ungethiem: Spring Park, Jeff, Section C?

Jeff Mueller: Okay, revision to the drainage plan on lots 26 through 28. The original drainage plan for this subdivision was approved by the Drainage Board on April 28, 1998. This subdivision is located off of Booker Road between Red Bank and Koring, south of New Harmony Road. This submittal is for a revised drainage plan for a drainage ditch on lots 26, 27 and 28. The original plan called for a drainage swale to be located as shown on drawing one of two in your packet. I'll get that up here too. There's lots 26, 27 and 28. The revised plan is to move the drainage to the location shown in drawing two of two, which puts the drainage along the base of the hillside and allows for better placement of the homes on the lots. So, to kind of give you a feel for this, this is all hillside draining in this direction, and, so, what they're doing is they want to put the ditch down along the base of the hillside, capturing the water off of the hill and taking the water away from the lots, versus the way it was supposed to come was kind of through here that way. The developer, because of the contours of this area and the shallow depth of the rock, it's not possible to construct a standard swale with vegetated 3:1 side slopes. The developer is requesting to construct steeper side sloped ditches with rip rap armoring, or natural rock where it exists. At this time, a rough ditch has been dug in the proposed location, but rip rap has not yet been placed. The developer is requesting that the revised drainage plan, as submitted on drawing C-10 and C-1.1 be approved. If approved, the developer will then go through the necessary filings to dedicate a revised easement and vacate the existing easement so that the approval of this revision would be conditioned on the dedication and vacation of the easements discussed. I've reviewed the submittal and made a site visit and agree that when one takes in to account the typography and geology of the area, that this proposed ditch might work better than the original proposed swale, which was to go through the front yard of one of the homes and crosses a shallow open swale that would be constructed in that home's driveway. Therefore, the revised plan is being submitted to the Drainage Board for approval. I know Justin Shofstall is here, the engineer, representing the developer if you would have any questions on it. One thing I will say, is this is one of those, I wish I had taken a picture of the actual area standing there, because one picture would show you that what they've got out there, what they're proposing is a better way to do it. So, Justin, do you got any comments?

Justin Shofstall: Nothing really to add, unless they have a question for me.

Commissioner Melcher: I don’t.

President Ungethiem: Do you have any questions?

Commissioner Melcher: Uh-uh.

President Ungethiem: Jeff and I reviewed this earlier today, and I have a pretty good understanding of what they're doing. It looks like a logical approach to drainage out there. So, I don't have any questions.

Commissioner Melcher: I move for approval.

President Ungethiem: I will second. Roll call.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Ungethiem?

President Ungethiem: Yes.

(Motion approved 2-0)

Justin Shofstall: Thank you.
Jeff Mueller: Next is Cayman, Section 4, Phase II, final drainage plan. This submittal is for approval of the final drainage plan for a proposed 108 lot subdivision just north of Kansas Road and west of Highway 57. The preliminary drainage plan for this subdivision was originally approved by this Board on February 3, 2015. The subdivision utilizes an existing retention pond that was originally constructed for the earlier phases of this subdivision, though that pond must be expanded. In order to construct the subdivision, a jurisdictional stream is being relocated. This relocation is under the authority of the United States Corps of Engineer and the Indiana Department of Environmental Management, which probably have a little bit different design parameters than our drainage code. Also, the relocation will require the developer to put in place a conservation easement, which will be much more stringent than a normal drainage easement. Unlike a drainage easement which this Board can give encroachments or allow for vacations, the language of the conservation easement will most likely not allow any encroachments or vacations to be granted by the County Drainage Board. The final drainage plan, I think I've got a drawing here to just kind of show you. This is the area that's being proposed, this is the current ditch, the new ditch will go up and around. This kind of shows the stream relocation plan. As you can see, where the old ditch is now they're digging a ditch up, and you can see it’s got all of these little twists and turns. The way the Corps and IDEM have you design ditches is they have a shallow area to carry normal flow, and then the idea is for that to kick out and flood, like every year or every two years, in a larger floodplain and the riparian wildlife areas. So, this is a ditch I’m pretty standard with, and then this would be the conservation easement. So, in other words, instead of someone just having a drainage easement in the backyard, you’re going to have a conservation easement. The developer will be required to plant certain species and certain trees, and essentially the folks that have those lots, other than just walking back there and looking, they won’t be allowed to do anything. They won’t be allowed to put a shed, normally, you know, on a conservation easement, if a tree falls, you’ve got to let the dead tree lay in your yard. So, they’re pretty stringent on those. The final drainage plan for this was submitted on March 31, 2015, with revisions submitted on August 17, 2015 and August 25, 2015. The plan that is requested to be approved consists of the submitted document dated March 31, 2015, responses dated August 17, 2015 and an e-mail response dated August 25, 2015, along with the following drawings; drawings one, C-100, C-102, C-104, C-106, C-107, C-108, C-111 and C-112 submitted March 31, 2015 and drawings two, C-101, C-105 and C-112 submitted August 17, 2015. As this is a final drainage plan submittal for a residential subdivision, under section 13.04.460 the developer will be utilizing the Plan B, the repair fund set up by the county to maintain all pipes not within the county road right-of-ways. The developer is also requesting that they be allowed to construct homes up to the limits of the lake maintenance and storm drainage easement for detention basin one. You’ve got a copy of that in your file. This is especially crucial on lots 350 and 351, where the houses are required to be 50 feet from the easement, as in our code. The lots, in their configuration, may not allow the construction of a house. I would like to add, the elevation should be set on the plat for these two homes to be two foot above the 100 year elevation of the pond. I’ve provided you with a copy of the review of the submitted drainage plan, and request that the review document be made part of the approved final drainage plan. The drainage plan was reviewed by the County Surveyor, and with the requested variance, found to be in compliance with Vanderburgh County’s drainage code, and therefore is being submitted to the Drainage Board for approval under section 13.040.090. I know we have the engineer here, and we also have someone from the developer, if you’ve got any questions regarding this drainage plan.

President Ungethiem: The relocated stream, will that eventually go back into the pond?

Jeff Mueller: Yes.

President Ungethiem: Okay.

Jeff Mueller: This is actually, it doesn’t show up very well, Bruce, but the existing pond is down here.
President Ungethiem: Right.

Jeff Mueller: That pond gets expanded all under this area here.

President Ungethiem: They’re going to extend the pond? Okay.

Jeff Mueller: The two lots I was talking about are the two lots right here that would be on this edge.

President Ungethiem: Okay.

Jeff Mueller: Okay? Like I said, to me, it’s more important that the house is a higher elevation than whether it’s 50 feet or 25 feet away from the pond. I would rather see it two feet above the pond.

President Ungethiem: Okay. By this relocation, this will be in the people’s backyards?

Jeff Mueller: Yes.

President Ungethiem: And they will be advised, when they buy the property, of the restrictions of what they can do with that stream?

Jeff Mueller: I’m going to let the developer answer that question for you. Someone representing the developer.

President Ungethiem: My understanding is they can’t mow it either.

Jeff Mueller: That’s my understanding too. My understanding is you can essentially walk back there and look at it.

President Ungethiem: Because I’ve got one of these in my backyard and they won’t let me mow it.

Manuel Ball: Manuel Ball with Jagoe Homes. That’s correct, Commissioner Ungethiem. We have, there’s actually restrictions that are recorded that will actually document and give restrictions as to what they can and cannot do in that area, but, then, actually the Corps of Engineers and IDEM actually asked for a step further. I believe there are actually restrictions associated only with the stream itself that have to be recorded as well. At this point in time I don’t believe there is any mowing of that area. I know, in certain scenarios we’ve had in the Louisville market in the past, they have allowed some selective mowing from time to time, but that will be something way on down the road. For the time being, we will have, we will basically hold five years of maintenance and will actually monitor the stream and the success criteria of the stream and the trees and the grasses for five years, once it is actually put in place. We will make sure that those homeowners are aware. Part of the permit with the Corps of Engineers and IDEM is also signage that actually details where that area is, and makes them aware that it is actually an easement for that only.

Jeff Mueller: It will be like driving up I-69.

Manuel Ball: Correct.

President Ungethiem: Steve, any questions?

Commissioner Melcher: No questions. Are you ready for the motion?

President Ungethiem: Yeah.

Commissioner Melcher: I’ll move for approval.

President Ungethiem: And, I’ll second it. Roll call.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Ungethiem?

President Ungethiem: Yes.
Jeff Mueller: Okay, Azteca, final drainage plan. This plan addresses a proposed upgrade to Azteca’s treatment facility, and consists of the addition of a lagoon and concrete pre-treatment facility. As the original treatment facility ended up with tarp lagoons, these lagoons now have an impervious cover, and along with the proposed facilities, require a drainage plan. Therefore, a drainage plan was submitted for not only the additions, but also the existing facilities. The final drainage plan consists of the construction of a dry detention basin. As the Azteca plant is located in an impacted drainage area, which I think I’ve got a map of that, just kind of for future, this is one of our two impacted drainage areas, which is essentially the Pond Flat impacted drainage area. The pond is designed to withhold the excess water from a hundred year storm, instead of a 25 year storm. So, anything within that blue area that’s required. The final drainage plan was submitted on August 17, 2015, with a completely revised document on August 28, 2015, and one additional drawing submitted by e-mail on August 31, 2015. The revised document addressed not only some questions that the County Engineer and I had on the original submittal, but also showed moving a proposed stockpile to the north, so as not to be a potential block to the drainage coming from the adjoining farm field. The plan that is requested to be approved consists of the revised submittal document with a receipt date of August 28, 2015, along with the revised drawing A-2, with a received date of August 31, 2015. In the drainage plan the owner is requesting a variance to not provide an easement for the detention basin, as the basin is located on the subject property and serves only this property. I have no issues with that variance request, and you have a copy of that in your file. I’ve provided you a copy of the review of the submitted drainage plan and request that the review document be made part of the approved final drainage plan. The drainage plan was reviewed by the County Surveyor, and with the requested variance, 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. I do recommend to the Board that the plan be approved, with the understanding that the construction of the stockpile be done so as not to obstruct natural surface watercourses coming from the adjoining property. The plans show that this will not occur, but I just wanted it noted so that if there’s any obstruction issues, that Azteca understands they need to address these issues if an obstruction is found, without going through all of the processes that we have to. So, what we’ve got here is, this is the new pond, and this, and originally they were going to put the stockpile here, and now they’ve moved it over here. This is a hill right here, so everything should drain fine around there, but I just want to make sure when their contractor is out there that we drop a dozer blade and get a cut so we don’t have like we had in our last situation.

President Ungethiem: You don’t want a lake on the upside of that?

Jeff Mueller: Right, and I don’t think Mr. Rexing would either. So, but other than that I’m fine with the plan. Mr. Jim Farny is here from the Lochmueller Group if you’ve got any questions. You can’t give me a chemistry question, Bruce.

President Ungethiem: Hmm?

Jeff Mueller: You can’t give me a chemistry question on this.

President Ungethiem: What’s the Ph…no. Is this guaranteed not to smell?

Jim Farny: There are no guarantees.

Madelyn Grayson: What was that, Jim?

President Ungethiem: He said there are no guarantees. Since, I live fairly close to this, if we guarantee it not to smell. I understand, Jeff and I have talked about it. I’m okay with it. Steve, any questions?

Commissioner Melcher: No questions. I move for approval.
President Ungethiem: I'll second it. Roll call.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Ungethiem?

President Ungethiem: Yes.

(Motion approved 2-0)

Walmart: Final Drainage Plan (Continued from 8/11/2015)

Jeff Mueller: Next on the agenda is the Walmart final drainage plan, continued from August 11, 2015. As of yesterday, John Stoll and I had questions regarding the review of some of their calculations. It's John and I's intention to make a list of our concerns and address them with the consulting engineer, by phone, within the next couple of days. Therefore it's our recommendation that this be continued until the September 15th meeting. We've been in communication with Walmart. They were headed this way yesterday, and we said, we're not ready, we're still looking at this. Also, I talked to Mr. Markwell, if you remember he was the gentleman in here last time with the concerns, and I told, gave Dwight an update of where we were and that it wasn't going to be heard tonight. So, he appreciated that we called him so he didn't have to make a trip down here. So, I guess, the easiest way to say it is John and I are still looking at things, and when we feel a little more comfortable with it, then we'll schedule it to come back before the Board, but we're shooting for September 15th.

Commissioner Melcher: Okay.

Jeff Mueller: John, did I put any words in your mouth? Are you good with that?

Commissioner Melcher: So, you need a motion to move it to the 15th? Is that right?

Joe Harrison, Jr.: I think he's probably just telling us that it's not going to be tonight, and he'll bring it back when he's ready.

President Ungethiem: Yeah.

Jeff Mueller: We probably, I do know, I think there's something in the code about if something doesn't get continued—

Joe Harrison, Jr.: Okay, well, that's fine.

Jeff Mueller: -- I do believe that there's some deadlines.

Joe Harrison, Jr.: Well, we can go ahead and they can make a motion.

Jeff Mueller: Probably just make it that way.

Commissioner Melcher: That's what I was trying to do.

Joe Harrison, Jr.: Okay.

Jeff Mueller: That's what I thought you were, Steve.

Commissioner Melcher: I move that we move it to the 15th.

President Ungethiem: I'll second. Roll call.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Ungethiem?

President Ungethiem: Yes.
President Ungethiem: Jeff, thanks for you and John staying up on this. I think it’s good that we get this done right the first time, so that we don’t have to fight this later on.

Jeff Mueller: Well, we all know that the folks out there aren’t real happy with it, but at least we want to try to make sure that we don’t have lakes in their front yard.

President Ungethiem: Yeah, they would be a whole lot less happy.

Jeff Mueller: We can’t do anything about having lights in the windows and Christmas carols playing at night, but we can address the drainage.

Enclave Status and Completion Schedule Update

Jeff Mueller: The Enclave status and completion schedule update. As you are aware, an inspection was made of this subdivision on June 8, prior to the June 9th Drainage Board meeting. I believe that the Board felt that there was sufficient progress at the subdivision, at that time, and that the way I understood the discussion that work would continue toward completion of the drainage. Based upon those actions, the Board granted the platting of additional lots in this subdivision. On August 5th, while making my rounds to several sites in the county, I went to The Enclave and found that it appeared that little or no additional work had been done at this subdivision since the inspection that occurred on June 8th, and that additionally the required maintenance that was to be performed had not been done. As a result of that site visit, I e-mailed everyone, and President Ungethiem requested that I contact both the developer and the home builder and request their presence at this meeting, and that they provide us with a schedule for completion of activities on this site. I made an additional site visit on August 28th to obtain some pictures for the Board, and I have those in this presentation. So, I can run through those real fast. This is kind of what we said, we had, you know, we had the update, made two site visits on the 5th and the 28th. My general comments are that there had been no additional work on the swales, or very little, or any other grading or remediation work. The basins hadn’t been mowed by the developer, as required. I was concerned about establishment of permanent vegetation, and the basins have not been certified by a registered engineer. This is Basin #1, the one along Felstead Road. This was as it looked June 2015, and it did look very nice. This is what it looked like on August 5th. We had some problems with lot 50, we did notify the builder because this dirt here runs into Basin #1. The builder did put a, get rid of this dirt, and he has put a silt fence down, lower down to capture this material. This was Basin #2 on June 5th. This is Basin #2 today, or August 28th. This is some areas in June where we had a lot of exposure, with no permanent vegetation. We still have that same area, and it’s got quite a bit of exposed areas. We’ve got erosion along the west side, with no permanent vegetation. The drainage ditch along the west property line still needs to be addressed. These are swales behind the house, these haven’t been completed. There has been a little work started up here on this swale, this was on the 28th, but this swale hasn’t been completed. So, I guess, from my viewpoint, I know there’s some people here that probably want to speak to this, but, you know, it seems like we need to have that plan reviewed by the developer or their consultants, and figure out what they need to do, but we need to finish the swales and get the grading done, the basins need to be maintained, and the biggest concern, and Commissioner Ungethiem and I have talked about this, is that we’re running out of time for permanent vegetation to go down. We’re getting in to that window where we’re not going to get any permanent vegetation pretty soon and we’re going to have a lot of exposed areas if something doesn’t happen pretty soon. Again, we need a certification statement on the basins. So, that’s my comments, and I think there’s some other people that may be here to speak.

President Ungethiem: Thank you, Jeff. I probably forced this issue because my concern here was that I was hearing comments from Jeff and comments from the County Engineer’s office that we really haven’t had a whole lot of progress made since the June meeting where we released the additional lots to be developed. That was not what I had envisioned when we did that in June. We are in a position right now where if something doesn’t happen in the next month, we’ll miss a perfectly good opportunity for vegetation to be seeded and planted. September is the best time to do that, and we’re already in
September. So, I asked Jeff to contact both the developer and the home builder and I want to understand what the schedule is for the next 60 days. If we don’t do something in the next 60 days we’re going to miss an opportunity, and I don’t want to be sitting here in December listening to comments that say, well, we can’t get grass to grow in December. No, you can’t, but you can get it growing in September, and today is September. Please state your name.

Dan Buck: My name is Dan Buck. I’m a partner in the development. As far as mowing and the basins, Jeff Stemaly wanted to get a certain type bale mower to do it, so he could do it from the sides so it wouldn’t rut up the basins and create more of a problem with it. In the meantime, he’s been a little incapacitated. We have mowed 90 percent of the rest of the property. The basins have been as built, and they’re at Morley’s. There’s two swales that need to be adjusted, and we wanted to bring them all after they were adjusted, bring them all down at one time, so we weren’t piece meal it. We had planned on having the storm sewer and the sanitary sewer on the last phase completed by now, but the Sewer Department stopped us, and said that we had to come back for the last phase and get it all re-approved again. In my 37 years, this is the first time this has ever happened that after a sanitary system has been approved, you’ve got to go back and get it re-approved again, which held us up. It got approved today. So, we plan on starting ASAP with sanitary. The storm will follow that. We hope to be done by, I would say, about five weeks, have streets in, everything trimmed up, seeded, strawed, finished up.

President Ungethiem: Can you provide me a schedule of activities for the next six weeks?

Dan Buck: Sure.

President Ungethiem: That shows what we’re going to be doing every week, so that we can get to that completion with everything seeded and everything.

Dan Buck: Sure, we’ve got, like I said, today we finally got approval, so, Mr. Ball was there at that meeting also. It was just a surprise to us that we had to go back and get it all approved again. So, it held us up three weeks. So, some of the bare areas that you see there were where we had our excavator there, we took off our manholes, all of our pipe and everything, we were putting them out to where they were going to be put in, and then we had to stop.

President Ungethiem: Who’s going to do the seeding?

Dan Buck: Superior Ag has done it in the past.

President Ungethiem: Do you have a contract with them to get that going here in September?

Dan Buck: I don’t have a contract, but all I do is go over there and pay them and they do it the next day.

President Ungethiem: There’s a lot of people that are going to be seeding in September. I want to make sure we get our name in the hat.

Dan Buck: I’ve already got a commitment from them.

President Ungethiem: What I would like to see is a document of that commitment that they’re going to be seeding that area in September.

Dan Buck: Okay.

President Ungethiem: Because I want to make sure that they don’t, that you don’t call them and they say, oh, by the way, we can’t get to you until November.

Dan Buck: Yeah, we know they’re throwing in wheat, but wheat comes in a little bit later than that.

President Ungethiem: I just, what I would like to have is a schedule of your activities for the next six weeks, and a letter from Superior Ag stating that they will be there on x,y,z date to seed that land.
President Ungethiem: Mr. Ball, do you have anything to say?

Manuel Ball: Yes. If I can approach you all, I have some, I guess I have some new plans showing kind of where we stand in our process. I believe currently we have purchased 11 of the 15 lots that were just recently platted. We’re on a takedown schedule with Dan. We plan to continue purchasing those lots. There was a picture a minute ago of a swale with an excavator, that particular area is actually behind one of our homes that is currently under construction, I believe it is home number 22 there. So, that should be sodded in the very near future. Currently, I believe we’re waiting on a home owner to put in a retaining wall. In that particular case, we don’t always do it, but from time to time we do allow, I guess, sweat equity in the home. In this particular case we have a customer who is wanting to put in their own retaining wall. So, we’re waiting on them before we sod the back yard. Then, I believe, lot number 18 we’re in a similar scenario, we have a home owner who is putting in a pool. It’s my understanding that the pool will be in next week. So, once that’s completed, that yard will be sodded. As you see, with the red hatched areas, those are all lots that are currently under construction. Typically what that means for us is a 90 day build. All of those have, I believe all of them except for maybe one of those is at least at the framing stage, therefore, we are probably, we’re probably much less than 90 days at this point in time before those lots get sodded. I currently looked at the lots yesterday, and I believe we have good erosion control on all of our lots at this point in time. We’re keeping our sediment on each individual piece of property at this point in time. I would agree with Dan in the fact that, Dan will probably tell you, I don’t know that Dan’s always been real happy with me, we’ve pushed pretty hard to get the next block of lots ready. In fact, the five lots along Cliftwood Drive there as you come in to the community, do not have sewer placed to those yet, so, we’ve pushed pretty hard to get that accomplished. Dan was ready, I guess, three weeks ago now, and actually had equipment on site and material on site, and he was held up by Evansville Water and Sewer. It’s not something that we have seen in the past either in our years of development, of actually having to go through and resubmit an application. So, our goal is to continue to move forward with these lots, and hopefully we can get those established as quickly as possible.

President Ungethiem: Can you tell me, or show me where that sewer, that sanitary sewer line is going to run that extends to these?

Manuel Ball: Dan can probably do a better job than I can. It actually runs along the frontage of those five lots.

Dan Buck: Jeff, can you put the plot back up there?

President Ungethiem: To the west.

Jeff Mueller: I don’t know if I can or not, Dan, to be honest with you. Does he want that, will that help?

Manuel Ball: He may be able to show them right there.

President Ungethiem: So, you’ll be disturbing that area in the next week or so?

Dan Buck: Right.

President Ungethiem: We’ll have to get sod and put back on that, or get…is that planned on being re-sod, or are you going to seed that? How are you going—

Dan Buck: Seed and straw.

President Ungethiem: Okay, you’re going to seed and straw that.

Dan Buck: It’s all, there’s no homes finished there in the area.

President Ungethiem: But, my concern is, that hill is going this way. If we get a good rain after you’ve disturbed that soil, that basin is here, right?

Dan Buck: Right, we’ll have to put up soil erosion during construction.
President Ungethiem: Yeah, okay, because right now that’s got growth on it, but we’re going to interrupt that growth with the sewer construction.

Manuel Ball: Sure, I think we’re all in the same position. I don’t disagree with you, Bruce, I think we want to move forward as quickly as possible so that we get grass and we’re not in a similar situation of what we were last year. Because, once again, once these lots are ready to plat, we will want to purchase those very quickly, seeing as if we already have, of those 15 lots, I believe all of them are actually sold except for one. So, once again, we’re running through our inventory, and we will not want to be in the same position in December, having similar conversations to what we had last year. So, I think we’re all on the same page that we want to move forward on that.

President Ungethiem: Okay. Can you have that information, the schedule and that letter from Superior Ag to me the first part of next week?

Dan Buck: Today’s just Tuesday, right?

President Ungethiem: Today is Tuesday.

Dan Buck: Oh, yeah.

President Ungethiem: Okay, by Monday of next week? Okay, thank you. Jeff or John, any other questions, comments about the current status of this? Is there anything that these guys need to be concentrating on during the next six weeks?

Jeff Mueller: No, I think pretty much what’s been discussed. I think we all want to see ditches done and things green out there, and, you know, move on to other things.

President Ungethiem: Okay.

Jeff Mueller: So, you know, I wanted to make sure everybody knew what was going on, and make sure that, you know, you guys weren’t caught by surprise of what was or was not going on out there. That’s why I brought it forward to the Board.

President Ungethiem: When do we plan to, and maybe this is a question for John or you, when do we plan to have the next inspection of the lot?

Jeff Mueller: I mean, that’s up to you guys, on when you want. I don’t have a regular inspection schedule. It was like, you know, that particular day when I went out there, I hadn’t been out there for a long time, and I was hitting all of the subdivisions and other areas that were there, and it was just kind of a random inspection.

President Ungethiem: I would like to have an update the first meeting in October.

Jeff Mueller: Okay.

President Ungethiem: If we can set something like that up.

Jeff Mueller: We can do that. John and I will go out.

President Ungethiem: We’ll give them four weeks to make progress and then get an update report the first week—

Commissioner Melcher: Well, if he’s giving you a report, then you should copy him so he knows.

President Ungethiem: Yeah.

Jeff Mueller: And, we want that due next Tuesday, next Monday is Labor Day.

President Ungethiem: That’s correct. So, it would be next Tuesday.

Commissioner Melcher: You’ve got an extra day.

Jeff Mueller: Yeah.

Joe Harrison, Jr.: What about the certification of the basins?
President Ungethiem: Oh, Joe was asking about the certification of the basins, when do we expect that to be complete?

Jeff Mueller: I guess, the question is, when do they think, if they think they're done, then they need to be certified and submitted to us. You know, a basin certification, which is what I used to call an as built, or what some people call a record drawing, which is, you know, saying that this is what's been built out there, and by the way, it was supposed to hold “x” amount of cubic feet of water and it will do that. You know, something to that effect.

President Ungethiem: Is that in Morley's court to, since they did the design?

Jeff Mueller: You know, it's in the developer's court to get that to us.

President Ungethiem: Right.

Jeff Mueller: From whatever engineer.

President Ungethiem: When can we expect that?

Dan Buck: I'll go ahead and have Morley send that over, but not for acceptance, but just for their review, because, again, we want to get everything accepted at one time and not piece meal it.

President Ungethiem: Okay.

Dan Buck: So, I'll have them send that over to you.

Commissioner Melcher: So, does that work?

Dan Buck: According to Morley everything is okay on the basins, we just had to touch up two swales, that was it.

Commissioner Melcher: Does that work for you, Jeff?

Jeff Mueller: That's fine. I mean, I'm just—

Commissioner Melcher: Okay.

Jeff Mueller: -- making sure that, like I said, that we were staying on a schedule. That's my goal.

Commissioner Melcher: Okay.

Jeff Mueller: I am concerned about the fall, as you are.

President Ungethiem: I don't want to be talking about this at Christmas time.

Jeff Mueller: I don't either.

President Ungethiem: Okay. Steve, any questions? I know we've probably got one person that might to say a few words from the audience. If you would like to come forward, state your name.

Don Fuchs: Don Fuchs, F-u-c-h-s. I serve as legal counsel for Barbara Bolin, who is the owner of the real estate that is across the road from this subdivision. I want to report to this Board that since the last meeting, what, approximately two months ago, it was my understanding at that meeting that, I don't see Mr. Stemaly here, Jeff Stemaly, on behalf of the developer, but I want to report that my client, neither my client nor I have received any communication whatsoever from this developer with respect to the remediation of the problems with her lake. Which I understood was represented at this last meeting that they were going to be diligently looking, working with us towards the remediation of her problem. Correct myself, there was one communication, that was to, shortly after the meeting, there was a request by Mr. Stemaly to have a subcontractor to have permission to go out on Mrs. Bolin’s property, including her lake, to take certain samples. We gave that permission, under the condition that following that completion of that, we would receive a copy of the report. Other than the phone call that I received and the e-mail communications that I had with Mr. Stemaly providing him such
authorization, I’ve received nothing. Absolutely, unequivocally nothing with respect to remediation of Mrs. Bolin’s property, and the damage that has been caused to her subdivision. So, we’re now here and we’ve got Jagoe and their legal counsel and they’re talking about they want to expedite this process, they want to move forward with being ready to plat other lots in this subdivision, and still Mrs. Bolin’s property has not been remediated. I don’t even have a proposal on how to do that.

President Ungethiem: Mr. Buck, would you like to respond to that?

Dan Buck: Sure. Mr. Stemaly was taking care of that, so, I’m a little bit out of the loop, but we hired a Becky Langford to do the study. She did the study, which I’m sorry you haven’t received, but it was sent up to Ann Marie Cooper up at IDEM, and she wanted more information from Becky Langford on how she came to the conclusion that she did. So, we’ve been waiting for that information from Becky to forward on to Ann Marie so the decision could be made on how it was going to be handled.

President Ungethiem: Can you provide that information to Mr. Fuchs and Mrs. Bolin, that correspondence? I would also request that any future correspondence between—

Dan Buck: I assumed that it had been. So, I shouldn’t assume, but the report was done. It was sent up to IDEM, and they had reviewed it, and they just wanted more information and we’re waiting for that information. So, but we will get that correspondence to Mr. Fuchs.

President Ungethiem: Okay. I would suspect that Jeff and/or John would be interested in that information as well. So, if you can send them a copy of that correspondence as well, that would be good.

Dan Buck: Okay. No problem.

Don Fuchs: Let me go on the record to state I’ve made it very clear to Mr. Buck that he was to get me a copy of all reports. He agreed to provide me a copy of all reports. No reports have been provided to me. The last meeting had Mr. Stemaly here saying, well, I apologize, I’m coming in at the last minute on behalf of Mr. Buck to assist in this matter. Now we have Mr. Buck here this evening saying, Mr. Stemaly is not here, so I’m taking care of this matter. So, one hand doesn’t know what the other hand is doing, and it’s further excuses and delays as to why my clients’ property is not getting remediated. I have a client that calls me monthly and wants to know is what is this Board, what is this Commission, what are the public officials doing to correct my situation to assist me?

President Ungethiem: I understand your frustration. You know, we’re not getting any information either. So, for me to tell you that this is happening or this is happening, I would have to refer that to Mr. Buck as to what has actually happened at this point in time. I have not seen that study. I don’t know what that study states. I don’t know what the remediation plan is at this point in time.

Don Fuchs: Mr. Ungethiem, and I appreciate your concerns and I’ve noted for the record that prior to you becoming a Commissioner here, that you were critical of how this matter was being handled by our former Commissioners in this matter. So, I appreciate your concern in this.

Commissioner Melcher: Well, I guess I would take that as an insult, because I guess I’m one of them former Commissioners. So, I don’t think it does any good for you to get up and bash a Commissioner, and another one that’s not even here tonight. I just think that’s was wrong on your part.

Don Fuchs: Pardon me?

Commissioner Melcher: I think that’s very wrong on your part.

Don Fuchs: Well, I apologize. I didn’t mean to insult you. When I’ve been here though on numerous times and no progress is made, Mr. Melcher.

Commissioner Melcher: I don’t know what to tell you. We’re doing everything we can. You’ve been here, you’ve seen what we’re doing.
Don Fuchs: Well, what I asked for the last time is before any further lots be platted in a subdivision, make it a condition that this developer prepare a plan of remediation, post the necessary funds to make sure that that plan is effectuated. That’s what, Mr. Melcher, I asked that could be done.

Commissioner Melcher: Okay, you’ve asked. Thank you.

Don Fuchs: Do you have any questions of me?

President Ungethiem: No. The only question I would have would be to Jeff and John. The remediation of Mrs. Bolin’s property, is that something that is under the control of the county? Or is that under the control of IDEM?

Jeff Mueller: IDEM.

President Ungethiem: So, Mr. Fuchs, from that standpoint the remediation of that lake was not something that we stipulated had to be done. It was something that IDEM stipulated had to be done. So, from the standpoint of enforcement of that particular portion of this, I would suggest that a couple of letters and a phone call to IDEM might be beneficial as well.

Don Fuchs: Yes, sir.

Dan Buck: To respond to that, I’m sorry for the give and go that he thinks he’s getting, but I’ve had some health concerns, or health conditions that Mr. Melcher knows about, and Mr. Stemaly has had some of his own. So, that’s the reason why we’re juggling back and forth here. We’re not at a young age as what we used to be. It is IDEM’s call on what gets done over there. It’s not anybody here in this room’s. We’ve made Mrs. Bolin an offer to compensate her for the little bit of amount of silt that got into her lake. It wasn’t acceptable to her. I don’t understand their concept of using you guys to be the bad guy on me, versus him just going ahead and filing a lawsuit. If he wants to file a lawsuit, file a lawsuit. We’ll work it out, but he shouldn’t be putting you guys in the position that he’s putting you in. I apologize for me not being here for a couple months, and now Mr. Stemaly not being here tonight, but we couldn’t help it. Thank you.

Marco DeLucio: Just for the record, I spoke with Mrs. Stemaly today. She called me and told me that Jeff was having surgery today, which is why he’s not here. So, you know, that leads to a little bit of the confusion. The report we’ve talked about. I didn’t know that it hadn’t been delivered to Mr. Buck. I haven’t seen it myself yet either, but we’ve committed tonight to provide that report and the communication back and forth between the developer and IDEM, and we’ll do that.

President Ungethiem: Just to make sure, that report, can that report be provided by the end of this week? It should be available?

Marco DeLucio: I think it’s available now.

President Ungethiem: Okay.

Marco DeLucio: It’s been submitted to IDEM. So, yes, sir.

Dan Buck: It’s been sent to IDEM.

President Ungethiem: Okay.

Dan Buck: It should be on e-mail right now.

President Ungethiem: Very good.

Don Fuchs: Let me just go on the record to indicate that the offer that Mr. Buck has indicated that has been made to Mrs. Bolin was for a lot in that subdivision. There’s no monetary award, nothing that would assist her in getting her lake done. It was to convey a title to a lot that is of no value to her.

President Ungethiem: Understood. Jeff, did you have anything?

Jeff Mueller: No.
President Ungethiem: Okay.

Jeff Mueller: I'm just on the sidelines.

Dan Buck: Can I just respond to that? Just to give you guys what we did offer. We offered her, I'm sorry, Dan Buck again. We offered her almost a ¾ acre lot that abuts her property, that abuts her lake, that would give her privacy on the lake. If we turn this lot into a park or a picnic area or a camping area for the neighborhood and the neighborhood kids, or we give it to USI for them to use in anyway or manner. I think I would rather have that piece of property. It abuts right up to her lake that's so precious to her that she's trying to put her thumb down on us.

President Ungethiem: Okay. Are we having any other comments? Alright. Let's move forward. Jeff?

**Other Business**

Jeff Mueller: I don't have anything else on The Enclave, are we ready to move forward from The Enclave?

President Ungethiem: Yes.

Jeff Mueller: Okay. The last thing on the list is, actually two last things. First of all, I don't know if you know it or not, but if you got through this exciting reading in the Federal Register on the EPA's new proposed Waters of the U.S. that was supposed to simplify the definition. It was supposed to take effect on August the 28th, and a Federal judge put an injunction against it. So, we still don't know what's Waters of the U.S. I don't know when we will.'

Commissioner Melcher: Is that the one that supposedly is controlling all of ditches and everything?

Jeff Mueller: That's the one, that, yes, supposedly a county road ditch could be Waters of the U.S.

Commissioner Melcher: A county road ditch has now got to….see, to me, that's asinine, why anybody would even want to do that.

Jeff Mueller: I totally agree with you on that, Mr. Melcher.

Commissioner Melcher: So, maybe that's the reason why it's up in the air.

Jeff Mueller: Well, I've never seen a law that was supposed to clarify and added more confusion than what this one has.

Commissioner Melcher: Well, that's the federal government.

Jeff Mueller: Yeah, and I did like the one statement that was made—

President Ungethiem: And their overreach.

Jeff Mueller: -- that on the Preamble I think it states that the object of this is to clarify what are Waters of the U.S. and also reduce those, and then EPA came out with a statement saying, I think it was actually the Administrator of the EPA made the statement that, well, it will only increase the waters by three percent. So, we've got one side saying it's only going to increase it by three percent, and another one says it's going to clarify and decrease them. So, there's all kind of confusion out there. Anyway, right now, the Federal judge filed an, or approved an injunction, so right now we're still kind of in limbo.

**Ditch Maintenance Claims**

Jeff Mueller: Getting back to the Drainage Board, the last issue I have is, let me make sure it's the last issue, yes. The last is the ditch maintenance claims. There's been
submitted six claims for a total of $6,655.54. I do want to note that one claim for Kolb Ditch in the amount of $559.13 is for payment of 85 percent of an additional 220 feet of linear feet of work that was done on the project. Kolb is on the east side, it runs through a subdivision. We went in and cleaned a lot of it out, and actually a couple of neighbors upstream asked if we could do it. In looking at it, it needed it. It's one of those where, you know, you get on the job and there's always a little bit more than what was possible. So, but, that's a very flat ditch. It had a lot of muck and stuff in there and we actually got in there and cleaned it out, hauled the material away. So, I'm hoping that the neighbors out there are more happy with the ditch than they were before. That's all I have.

Commissioner Melcher: Okay, do you want a motion for that?

President Ungethiem: Yeah, to approve.

Commissioner Melcher: I move that we accept the claims of $6,655.54.

President Ungethiem: I'll second. Roll call.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Yes.

Madelyn Grayson: President Ungethiem?

President Ungethiem: Yes.

(Motion approved 2-0)

Public Comment

President Ungethiem: Anything else, Jeff?

Jeff Mueller: No.

President Ungethiem: Any public comment? Seeing none.

Adjournment

President Ungethiem: I would entertain a motion to adjourn.

Commissioner Melcher: Move to adjourn.

President Ungethiem: I second it. The Drainage Board meeting of September 1 is adjourned.

(The meeting was adjourned at 6:25 p.m.)

Those in Attendance:

Bruce Ungethiem  Stephen Melcher  Jeff Mueller
Joe Harrison, Jr.  Madelyn Grayson  Justin Shofstall
Manuel Ball  Dan Buck  Don Fuchs
Marco DeLucio  Others Unidentified  Members of Media