

PUBLIC HEARING.
STARK COUNTY BOARD OF COMMISSIONERS
September 22, 2020
6:00 p.m.

1 **MR. REGULA:** Okay. Good
2 evening, everyone. It is now 6:00 and we'll get
3 this public hearing started. Before we begin, I
4 want to remind all of you who are present about
5 the COVID 19 precautions that we are taking to
6 comply with the orders of the Ohio Department of
7 Health and Governor DeWine.

8 Everyone present in this room and the
9 adjacent room must wear face coverings during
10 this hearing. We people on stage will not be
11 wearing face coverings and anyone testifying can
12 remove his or her face covering while at the
13 podium.

14 In order for us to be able to hold this
15 hearing tonight, we will be enforcing the
16 wearing the face covering, social distancing and
17 the prohibiting of congregating. Thank you all
18 for your cooperation in these precautions.

19 Today is Tuesday, September 22, 2020, and
20 this is a public hearing held in accordance with
21 Ohio Revised Code Section 6131.10, the
22 consideration of a petition for the drainage
23 improvement of the Rudy Friedman Ditch Noble's
24 Pond improvement, to start to improve the Rudy
25 Friedman Ditch and Noble's Pond.

1 This hearing is a quasi-judicial matter.
2 Accordingly, a Court Reporter, Lena Duncan, will
3 be recording the proceedings. In the
4 introduction of the Board of the Stark County
5 Commissioners, to my right is Janet Weir
6 Creighton, Commissioner Bill Smith and I'm
7 Richard Regula.

8 The commission staff present here is the
9 County Administrator, Brant Luther; in-house
10 legal counsel, David Bridenstein; Director of
11 Management and Budget, Chris Nichols; Manager of
12 Properties and Contracts, Rick Flory;
13 Administrative Assistant, Jennifer Odey.

14 From the Stark County Prosecutor's Office
15 is Assistant Prosecuting Attorney, Deborah
16 Dawson; the Stark County Engineer's Office is
17 County Engineer, Keith Bennet; Environmental
18 Design Group is Project Manager, Jay Mosley; the
19 Petitioner, Rudy Friedman Ditch -- Rudy Friedman
20 Ditch Noble's Pond Ditch Improvement is Robert
21 Leibensperger.

22 We will now hear from Mr. Flory on
23 the procedural status of the petition.

24 **MR. FLORY:** Good evening. As
25 of January 30, 2020, the Rudy Friedman Ditch

1 Noble's Pond improvement petition was filed with
2 the Board of Commissioners proposing to
3 construct and improve the Rudy Friedman Ditch
4 and Noble's Pond.

5 This work includes, but is not
6 limited to the flood prevention, maintenance of
7 the Rudy Friedman Ditch, dredging the pond and
8 installing adequate detention/retention basins
9 to deal with the significant flows into the pond
10 from the 1,700 acres north of Noble's Pond, as
11 shown on Exhibit 1 of the petition.

12 The petition states that all costs of
13 engineering, construction and future maintenance
14 will be assessed to the benefitting parcels of
15 land and the property owners of those parcels of
16 land.

17 On March 2, 2020, an amended Rudy
18 Friedman Ditch Noble's Pond improvement petition
19 was filed, listing more fully the owners of
20 parcels averred by the petition to be benefitted
21 or damaged by the construction of the proposed
22 improvement. It would also -- it also correctly
23 listed the owner of the 13-acre pond as the
24 Villages Association Incorporated.

25 On March 18, 2020, the view was

1 scheduled for April 29, 2020 at 9:00 a.m. at the
2 Jackson Township Fire Station Number 1 at 6965
3 Strausser Street Northwest in North Canton. And
4 a hearing scheduled for July 28, 2020, at 6:00
5 p.m. at the Jackson Center for the Performing
6 Arts, the Jackson Local Schools, 7600 Fulton
7 Drive Northwest in Massillon.

8 On April 1, 2020, the view was
9 postponed until June 24, 2020 at 9:00 a.m. at
10 the same location. The first hearing was
11 postponed until September 22, 2020 at 6:00 p.m.
12 at the same location. And this was due to the
13 declaration by the World Health Organization of
14 a worldwide pandemic.

15 The President is declaring a national
16 emergency and the issuance by the Governor of
17 Ohio of stay-at-home orders due to the COVID-19
18 pandemic.

19 On June 10, 2020, the second amended
20 Rudy Friedman Ditch Noble's Pond improvement
21 petition was filed, listing more fully the
22 owners of parcels averred by the Petitioner to
23 be benefitted or damaged by the construction of
24 the proposed improvement.

25 It further asks that the County find

1 that there is inadequate acreage available to
2 add additional detention and retention to
3 control the sedimentation of Noble's Pond. The
4 petition requests implementation of the
5 EnviroScience four-bay expansion and restoration
6 plan and, when necessary, the dredging of
7 Noble's Pond to maintain a depth greater than a
8 minimum two to three feet.

9 On June 24, 2020 the view was held
10 9:00 a.m. and due to the large turnout, was
11 moved from the fire station to the Strausser
12 Elementary School at 8646 Strausser Street
13 Northwest in Massillon. A recording and
14 transcription of the view are posted on the
15 Board of Commissioners -- at the Board of
16 Commissioners website.

17 The Stark County Engineer's
18 preliminary report was received on Friday,
19 September 18, 2020 and posted to the Board of
20 Commissioners website and will be presented by
21 the engineer to the commissioners tonight.

22 We have received, to date, eight
23 written comments from affected property owners
24 opposed to the petition. And I will present
25 that to the Court Reporter tonight to be added

1 into evidence.

2 I will now give a description of the
3 route and terminance of the Rudy Friedman Ditch.
4 The route of the Rudy Friedman Ditch begins
5 north of Portage Street and west of the River
6 Tree Christian Church and the Meadowlands Number
7 Three allotment. It travels south, crossing
8 under Portage Street, where two lateral ditches
9 join it to the east and the west.

10 The east lateral travels west from
11 Lorain Avenue Northwest between Ross Street and
12 Hinkman Street, then crossing under Dale Avenue,
13 where it joins the ditch. The west lateral runs
14 from a pond north of Portage Street and east of
15 the Jackson Trench Church. It travels south,
16 crossing under Portage Street at a southeast
17 angle and joins the ditch there.

18 The ditch now travels south
19 paralleling Arlington Avenue and continuing
20 between Longford Avenue and Dromoland Circle,
21 crossing under Killian Street. It then turns
22 southeast, north of Wellesley Street, crossing
23 Drexler Avenue, and then turning southeast.

24 It continues behind the Sauder
25 Elementary, the football stadium and the middle

1 school, crossing State Route 241 just south of
2 Ponteberry Street. It continues southeast of
3 Ponteberry Street and turns south between
4 Andiron Circle, Militia Hill and Barnestable
5 Circle. It turns southeast to just west of
6 Flagstone Circle, where it turns south and
7 crosses under Fulton Road between Altercare
8 Noble's Pond and the Goddard School, continuing
9 south, where it finally flows into Noble's Pond.

10 **MR. REGULA:** Thank you, Rick.
11 The purpose of this hearing is for the Board of
12 County Commissioners to receive and hear the
13 County Engineer's preliminary report regarding
14 the estimate of cost, the feasibility of the
15 project and his opinion as to whether benefits
16 from the project are likely to exceed the
17 estimated cost and to receive evidence from
18 affected owners for or against the granting of
19 the proposed improvement.

20 It is not the purpose of this hearing
21 to answer the questions of anyone in attendance.
22 There is a list of -- this is very important --
23 there is a list of answers to frequently asked
24 questions concerning the proposed improvement on
25 the County Commissioners website under "Latest

1 News." If you have a question which is not
2 addressed there, please submit it in writing.
3 It will be referred to staff for response, which
4 will be posted in the frequently asked questions
5 on the website.

6 All of those affected owners desiring
7 to -- desiring to address the Board must first
8 have signed in with board staff. Every owner
9 desiring to present testimony to the Board will
10 have an opportunity to do so.

11 Based upon the terms of use specified
12 by the Jackson Local School District Board of
13 Education, we are permitted to use this venue
14 until 10:00 p.m. this evening. If, by that
15 time, anyone still desiring to testify has not
16 had an opportunity to do so, this hearing will
17 be recessed until October 7, 2020, 6:00 p.m.,
18 again here at the Jackson Center For the
19 Performing Arts.

20 The engineer's preliminary report was
21 submitted to the Board on September 18, 2020 and
22 made available on the commissioners' website for
23 public inspection. Following the presentation
24 of the engineer's report to this Board, any
25 owner of property alleged to be benefitted from

1 this improvement may appear in person and after
2 being sworn, may present evidence in favor of or
3 opposed to the drainage improvement.

4 Board members may ask question of
5 those presenting evidence at any time. Please
6 note, however, that this hearing is not an
7 adversarial proceeding. Cross-examination of
8 witnesses, therefore, will not be permitted.

9 We now proceed to the hearing on the
10 merits of the petition. The order in which the
11 presentation will be made is as follows: The
12 Stark County Engineer; the Petitioner, for any
13 additional evidence not previously submitted;
14 affected property owners in favor; affected
15 property owners opposed.

16 We will now receive the preliminary
17 report from the County Engineer, Keith Bennet.
18 Following the report, those property owners
19 affected by the proposed improvement wishing to
20 testify will be given an opportunity to speak in
21 an orderly and legal manner. And now I'll call
22 upon Stark County Engineer, Keith Bennet, to
23 present the report, Keith.

24 **KEITH BENNET:** Thank you,
25 Commissioner. As stated, the preliminary report

1 was issued to do the Commissioners last Friday,
2 September 18th. The County Engineer's
3 responsibilities in this process are outlined in
4 the Ohio Revised Code. We were in step two of
5 that. The first step was to obtain the project
6 view, held on June 24th.

7 **MR. REGULA:** You need to be
8 sworn in, I'm sorry.

9 (Thereupon, the witness was sworn in
10 by the Court Reporter.)

11 **MR. REGULA:** Sorry about that.

12 **KEITH BENNET:** And everything I've
13 said so far has been the truth. So the next
14 step is to complete the preliminary engineering
15 report, which we have done, and that is the
16 state we are at her now.

17 The preliminary engineering report is
18 outlined in Section 6131.09 of the Ohio Revised
19 Code. It is a basic overview, meant to assist
20 the Board of Commissioners in the decision to
21 move forward or not with the project.

22 The preliminary -- preliminary
23 engineering report addresses the following
24 items: Preliminary estimate of costs; comment
25 on the feasibility of the project; apparent

1 favorable and unfavorable conditions and
2 statements of opinion as to whether the
3 project's benefits likely exceed the estimated
4 cost.

5 What the preliminary engineering
6 report does not include are the following: Any
7 recommendations as to projects; these are the
8 opinions of this office only. Which parcels
9 benefit from any improvement are not addressed
10 in the preliminary engineering report and any
11 anticipated assessment for any given parcel are
12 not address at this point in time.

13 To assist the engineer's office with
14 the preparation and analysis needed for the
15 preliminary engineering report, the County hired
16 Environmental Design Group of Akron, Ohio. Jay
17 Mosley is here representing them this evening
18 and is available if I can't answer of your
19 questions from the Board.

20 They were mainly hired to assist with
21 the inspection of the pond and ditch; review the
22 history of the watershed development; complete a
23 hydrologic and hydraulic computer model of the
24 watershed; evaluation of potential alternatives
25 and addressing the prayers of the petition and

1 assistance with report preparation.

2 As stated, we were working now under
3 the second amended petition that was submitted
4 by the Petitioner and, I believe, approved on
5 June 10, 2020. The petition requested
6 improvements to the Rudy Friedman Ditch and
7 Noble's Pond and includes the pond and the entire
8 ditch above the pond to the north.

9 The work for the location of these
10 items are in sections 21 and 22 of Jackson
11 Township. The petition, as we reviewed,
12 specifically requested construction of
13 improvements to the pond and ditch.

14 There were four main items that were
15 to be looked at: Flood control and prevention,
16 maintenance of the Rudy Friedman Ditch, dredging
17 of Noble's Pond and installation of adequate
18 detention/retention to handle flows into Noble's
19 Pond. If those were not feasible, consideration
20 of work proposed by EnviroScience, the
21 consultant that had been hired by the
22 Petitioner.

23 Due to the -- due to the broad scope
24 of the requested investigation, we chose to,
25 instead of addressing the project as a whole,

1 address each of the four main items listed in
2 the petition. Once again, this entire report
3 and the preliminary engineering report that I'm
4 summarizing tonight are available for view on
5 the Commissioners' website.

6 So first off, the first item we
7 looked at or addressed was flood control and
8 prevention. We also included additional
9 detention and retention aspects in this because
10 those are very -- those help determine what to
11 control flooding.

12 So in investigating reported
13 flooding, we are aware of around five residents
14 located along the south side of Noble's Pond on
15 Sweet William Circle and the reported flooding
16 of lower levels and/or backyard inundation
17 during flood events.

18 There was also one reported instance
19 of flooding that was presented at the view.
20 That was for a parcel just north of Fulton
21 Drive. And as a follow-up, we also had
22 discussions with both Stark Soil and Water and
23 Jackson Township personnel and they reported no
24 reports of any significant flooding in other
25 areas of the watershed.

1 So working with EDG, we did some
2 things to address and look at what could be done
3 for flooding and retention basin -- retention
4 and detention basins to potentially decrease or
5 eliminate flooding. We looked at the history of
6 the watershed. There were referenced USD
7 recommendations in the petition that we looked
8 at and we also reviewed past and current
9 subdivision regulations in place in Stark
10 County.

11 We had the model of the watershed to
12 complete, which they assist -- which EDG
13 assisted us with, which was necessary to look at
14 flooding. We looked at potential causes of the
15 flooding and possible solutions to reduce that
16 flooding.

17 In the design of Noble's Pond, it's
18 historically known that that was a glacial pond
19 that was originally had no physical outlet other
20 than underground drain.

21 As developments through the 1970s
22 into the early the 2000s were developed, in
23 order to have Noble's Pond accommodate increased
24 runoff from the proposed Noble's Pond
25 development, at that time, and the -- and the

1 existing developments that were completed
2 upstream, an additional outlet was designed for
3 Noble's Pond to handle the anticipated increased
4 flooding.

5 That outlet elevation was constructed
6 at an inlet of about 1,057.9 feet above sea
7 level from the outlets to Noble's Pond, from
8 Noble's Pond down through the Timken farm, upon
9 the Timken property.

10 And the design that was used back in
11 the late 1980s to 1990s was used to establish
12 recommended ground and building elevations
13 within the proposed Noble's Pond Development.

14 We had copies of the calculations
15 that were done at that time to size that outlet.
16 With the help of EDG then, the computer
17 watershed model was developed. They modeled the
18 watershed with the current impervious surfaces
19 within the watershed and we wanted to verify
20 that the design back in 1990s is what the model
21 was showing.

22 In running those storms, we ran
23 design storms for one, two, five, ten,
24 twenty-five, fifty and 100-year storms. And for
25 the storms that we had design calculations for

1 from the 1990, the elevations created by the
2 models were within -- they were in close
3 proximity, so we knew the model was matching
4 what was done during the time of the design.

5 So we compared those previous
6 calculations to the model, then we looked at
7 current Stark County topographic mapping, the
8 most recent 2016 elevations. And what we found
9 was that the residents at the end of Sweet
10 William Circle, especially the one that we know
11 has current flooding during some storms, floods
12 between the 10-year and the 25-year storms.

13 Other residences along Sweet William
14 Circle could potentially flood between a 50 and
15 100-year storm. So that's the current situation
16 as it stands now.

17 So we looked at options as to what we
18 could do to alleviate flooding as requested in
19 the petition. So EDG investigated possible
20 solutions to reduce or eliminate this flooding.
21 We looked at what available land was available
22 upstream for the potential retention and
23 detention basin construction.

24 And what they found was the most
25 practical location would be two parcels

1 immediately north of Noble's Pond, south of
2 Fulton Drive. One parcel is owned by Aultman
3 Hospital and the other is owned by the Noble's
4 Pond commercial district developer.

5 So EDG proposed using those two
6 parcels, regrading those parcels to develop two
7 large detention basins and have the water enter
8 those basins upstream at the inlet to Noble's
9 Pond storm during storm events to help alleviate
10 water -- all the water going to Noble's Pond
11 immediately.

12 And then they used the model on those
13 two basins that they had developed. With those
14 two new basins in there, they developed new
15 water service elevations based upon the
16 additional storage that these basins would
17 provide.

18 What they found was -- was that it
19 would not entirely reduce the flooding of the
20 one house that would flood between a 10 and
21 25-year storm. It would move that flood to
22 somewhere between the 25 and 50-year storm
23 event. But in either regard, that lower level
24 of that house would still flood and the back
25 yards in that area would still be inundated with

1 water.

2 So addressing then items for this
3 flood control portion, the County Engineer's
4 Office has determined that, yes, the project is
5 feasible. But the estimated cost -- and this
6 includes design, permitting, construction and
7 land purchases -- could be as much as \$8.2
8 million.

9 Favorable factors of this option
10 would be decreased frequency of flooding. It's
11 the largest unused open space that is the least
12 wooded and would provide the most benefit, those
13 two parcels I'm referring to. It has an
14 existing outlet already into Noble's Pond itself
15 and because there was no reported flooding
16 upstream of Fulton Road, we didn't have to worry
17 too much about retention upstream to address
18 that.

19 Unfavorable factors, significant cost
20 of the land acquisition itself. This is
21 commercial -- zoned commercial property. And
22 based upon the engineer -- our office's recent
23 appraisals on other road projects, commercial
24 property in Stark County, Jackson Township area,
25 can go up to \$500,000 an acre.

1 So that is the large majority of the
2 cost, but also hauling away a significant amount
3 of earth and excavation material from that site
4 would be also an expensive endeavor.

5 So based on the fact then that it
6 would not eliminate the flooding of homes along
7 Sweet William Circle, in comparison to the
8 exorbitant -- not exorbitant, but significant --
9 cost. Based on our early estimates, it's our
10 opinion that in this case, the costs likely
11 exceeds the benefit. So that addresses
12 condition one we looked at.

13 The second item we looked at was the
14 condition of the ditch. So county officials,
15 Vince, and EDG representative, Jay, they
16 inspected the entire length of the ditch. What
17 they found is the bottom is comprised of
18 sediment in the flatter areas.

19 These flatter areas are mainly behind
20 the school properties just west of Wales Road
21 and some in the agricultural areas just south of
22 Portage Street and some sediment settling out as
23 it approaches Noble's Pond coming south of
24 Fulton Drive. The remainder of the ditch is
25 gravel and cobble sized material.

1 Most of the bank areas were generally
2 well-vegetated with mature trees and smaller
3 undergrowth and there were some localized areas
4 of what we call toe erosion, where basically the
5 bottom of the bank, where the bank meets the
6 channel bottom itself, there were areas, short
7 areas of this along the entire length of the
8 ditch, but the most significant areas we found
9 were south of Fulton Road.

10 It appeared to us then that during
11 flood events, based on the erosion, this could
12 be a significant supplier of sediment reaching
13 Noble's Pond during flooding events. And
14 especially south of Fulton Drive, we did see a
15 significant amount of the toe erosion
16 undermining the vegetation at the top of the
17 banks; roots of trees were exposed, so it was
18 affecting the integrity itself of the ditch.

19 So we looked at options or proposals
20 of what we could do to areas of the ditch that
21 were being eroded. It was recommended by EDG
22 that if something were to be done it would be
23 installation of compacted backfill and matting
24 on the eroded slopes themselves.

25 Placing toe armor stone at the base

1 of the bank and that stone would be sized to
2 meet the anticipated stream velocities. And
3 then seeding and planting of the improved areas.

4 Also relating to ditch maintenance,
5 the Petitioner also requests that we consider a
6 proposal by EnviroScience to look at the
7 upstream inlet channel restoration. And in that
8 report, they asked us -- they had recommended
9 that rock be placed at several locations between
10 Fulton Road and the inlet to Noble's Pond to
11 create pools to help capture sediment.

12 So looking at those two items, the
13 repair of the banks themselves and installation
14 of this upstream inlet channel restoration, we
15 estimated that there would probably be within
16 the watershed, namely south of Fulton Drive, up
17 to 700 feet that we used for this evaluation of
18 bank restoration that needed to be done. We
19 estimated that the cost for that 700 feet would
20 be about \$233,000, and then \$75,000 for the
21 inlet restoration north of the pond.

22 In this case, once again, we
23 determined the project is feasible, it can be
24 constructed. Most of the places needing the
25 ditch requirement that we looked at had

1 relatively accessible locations. It helps -- it
2 would help with prevention of the potential loss
3 of real property due erosion and a decrease
4 settlement -- I'm sorry, a decrease in sediment,
5 not settlement -- sediment entering the forebay
6 above the pond as well as the pond itself.

7 Unfavorable factors was basically the
8 affected property owners, if they chose to,
9 could address the situations themselves. But
10 considering all aspects as far as the proposed
11 ditch maintenance, it is the engineer's opinion
12 that the benefits would likely exceed the cost
13 in performing repairs and maintenance to the
14 ditch.

15 Finally, we looked at the dredging of
16 Noble's Pond, which was requested in the
17 petition. Noble's Pond has required dredging,
18 in the opinion of the owner, in the past due to
19 sedimentation. The owner, who is part of a
20 private drainage authority, they are currently
21 dredging the pond itself right now, with a
22 schedule completion in fall of 2020.

23 They are removing some sandbars.
24 They pumped the pond down, removed some sediment
25 sandbars that were lessening the depth of the

1 pond. And they are taking that and they've
2 stored that material for the time being just
3 north of the pond on one of the vacant parcels I
4 had referenced earlier.

5 Prior to this, the pond was
6 previously dredged in -- portions of the pond
7 were dredged in the year 2000, prior to the
8 Noble's Pond people purchasing the pond from
9 Wilmo Development. And as I have stated that
10 they have not completely dredged the pond at
11 this point, they're only doing partial dredging
12 in certain areas.

13 One thing I want to make note of, the
14 dredging of the pond does not reduce flooding,
15 okay. The ability of a pond to handle the storm
16 flow is solely based on the normal water
17 elevation of the pond. The amount of storage
18 area above that normal water elevation and the
19 capacity that the outlet pipe can get the water
20 out of that area is what controls the level of
21 the pond, so dredging of the pond will not
22 improve any of the flooding issues.

23 Sedimentation in a pond can cause
24 water quality issues, algae blooms, elevated
25 water temperatures and so on, sedimentation,

1 shallow water. Water quality issues though also
2 not effect the system, and I'm talking the
3 drainage system's ability to drain storm water
4 runoff, so having unhealthy water in the pond
5 doesn't effect the system's ability to get the
6 floodwater routed through the system.

7 So basically our findings then, on
8 the dredging, the petition requested that the
9 pond be dredged to a level to where, at least,
10 the water was two to three feet deep. Using
11 some mapping that was done by a previous
12 consultant for the drainage authority, they
13 estimated it about 14, almost 15,000 cubic yards
14 would be need to be dredged from the pond to
15 meet those service elevations under the water.

16 We came up with a cost of \$1.15
17 million for the dredging. Once again, the
18 project is feasible, it could be done. The
19 favorable factors would be less sediment in the
20 pond, potentially improve the water quality in
21 the pond itself. The unfavorable factors, it
22 will not improve the overall drainage efficiency
23 or capacity of the drainage system.

24 So it is our opinion that the cost
25 would likely exceed the benefits in this case.

1 They also wanted us, because detention was
2 not -- detention/retention were not recommended
3 upstream, they asked that we look at a forebay
4 expansion that was also proposed by
5 EnviroScience, the consultant that the Noble's
6 Pond people hired.

7 The plan was developed by
8 EnviroScience, they submitted the proposal back
9 in 2018. And what that proposed plan contained
10 was there's an existing forebay, basically a
11 hole in the ground, prior to the pond that slows
12 the water and allows the sediment to settle out.

13 This plan suggested that the existing
14 sediment be removed from that pond, and I
15 believe they have removed some of the sediment
16 as part of the dredging -- ongoing dredging now.
17 But also to look at the sizing and deepening the
18 forebay itself and to improve the outlet of the
19 forebay between the forebay itself and the pond.

20 So in looking at that, we developed
21 costs for that as well. So the estimated cost
22 for that work was \$110,000 and that, once again,
23 includes design, permitting, construction and so
24 on. We also considered that project to be
25 feasible.

1 The favorable factor being less
2 sediment reaching the pond, once again,
3 potentially improving the water quality of the
4 pond. The unfavorable factors is, once again,
5 it will not affect the overall efficiency of the
6 drainage system itself.

7 But based on the cost and being able
8 to remove some sediment prior to entering the
9 pond, it's engineer's office opinion that in
10 this case, the benefits will likely exceed the
11 cost.

12 So in summary, after all that
13 long-windedness, after evaluation -- and once
14 again, these are the opinions of the -- this
15 office, they are not recommendations, they are
16 only opinions for consideration by the Board,
17 that the ditch maintenance repair, the inlet
18 channel restoration and the forebay expansion
19 are the only items in the petition that this
20 office feels the benefits outweighed the cost.

21 The cost that we give in this report,
22 I want to make clear, are very, very preliminary
23 costs based on what we've seen to point. If the
24 project moves forward to the point that plans
25 and such are developed, then those costs will be

1 refined. And that ends my report.

2 MR. REGULA: Any questions from
3 my fellow board members? Go ahead, Commissioner
4 Creighton.

5 MS. CREIGHTON: Keith, good
6 evening.

7 MR. BENNET: Yes.

8 MS. CREIGHTON: I have a couple of
9 things. First of all, I want to start with what
10 you just said last. Those three particular
11 things that you mentioned, I am correct that it
12 was about approximately a \$418,000 price tag.

13 MR. BENNET: Correct.

14 MS. CREIGHTON: Does that figure
15 include the cost of this report, or the final
16 report?

17 MR. BENNET: No, it does not.
18 It includes only work to do those three items.

19 MS. CREIGHTON: Okay. I believe
20 you mentioned this at the beginning, but I just
21 want to reiterate it and make sure I understood.
22 Assuming that -- assuming that we would agree to
23 the \$418,000 for the combo of those three
24 things, do you know how much each parcel would
25 be assessed?

1 **MR. BENNET:** No, not at this
2 point.

3 **MS. CREIGHTON:** You do not know
4 that?

5 **MR. BENNET:** That comes at a
6 later date, if the project moves forward.

7 **MS. CREIGHTON:** Do you know which
8 parcels of land would be the most, or the least,
9 benefitted by the improvement?

10 **MR. BENNET:** No. That would be
11 looked at a later date if the project moves
12 forward.

13 **MS. CREIGHTON:** Okay. I have one
14 last question, before I think of some more. I'm
15 not an engineer, so these may be really basic
16 questions --

17 **MR. BENNET:** No, that's fine.

18 **MS. CREIGHTON:** -- but I need to
19 understand. First of all, I did not understand
20 what a forebay was. And that was a hole in the
21 ground?

22 **MR. BENNET:** It's basically --
23 it's basically device, it can be a hole in the
24 ground, or a combination of holes and rocks that
25 basically slow the water down and collect

1 sediment prior to entering the body of water
2 itself. It's easier to clean, it's easier to
3 maintain than continually dredging the pond.

4 **MS. CREIGHTON:** So I'm going to
5 make a statement and tell me if I'm looking at
6 this incorrectly. If that pond has that silt
7 and the buildup in it --

8 **MR. BENNET:** Um-hum.

9 **MS. CREIGHTON:** And you are
10 recommending that it can be fixed -- that is the
11 wrong word -- but you are saying to me that
12 everybody upstream would have to pay for that to
13 be done for the benefit of those at Noble's
14 Pond.

15 **MR. BENNET:** We are not making
16 that statement at this time. That what -- the
17 benefits that we are looking at, just the
18 benefits to the system itself, okay, we do not
19 get into who benefits and how much that benefit
20 is until later in the process if this process
21 moves forward beyond tonight.

22 **MS. CREIGHTON:** But essentially,
23 then, am I making an improvement five miles away
24 for the benefit of the Noble's Pond Homeowner's
25 Association; would I be assessed for that?

1 **MR. BENNET:** Potentially --
2 **MS. CREIGHTON:** Okay.
3 **MR. BENNET:** -- yes.
4 **MS. CREIGHTON:** Okay.
5 **MR. BENNET:** Potentially, no.
6 **MS. CREIGHTON:** Okay, thanks.
7 **MR. SMITH:** Keith.
8 **MR. BENNET:** Yes?
9 **MR. SMITH:** Is this on?
10 **MR. REGULA:** Yes.
11 **MR. SMITH:** Okay, thank you.
12 Just so I'm clear, none of the -- none of the
13 studies that you did, am I right in saying that
14 Noble's Pond would not be converted -- I mean,
15 would be converted to a retention/detention
16 basin. That would have been north of there,
17 correct?
18 **MR. BENNET:** I don't follow.
19 **MR. SMITH:** Well, I mean, it
20 doesn't matter if Noble's Pond is 20-foot deep
21 or two-foot deep from all the sediment, it's
22 still a storage pond.
23 **MR. BENNET:** It's still a
24 storage pond.
25 **MR. SMITH:** Okay.

1 **MR. BENNET:** It was a natural
2 pond that, over years, was used as a storage
3 pond.

4 **MR. SMITH:** Okay. So what the
5 study is saying is if you went north of there
6 and put in two retention/detention, that would
7 be \$8 million one.

8 **MR. BENNET:** Correct.

9 **MR. SMITH:** Could Noble's Pond
10 be turned into a detention/retention basin
11 instead of a storage pond?

12 **MR. BENNET:** Detention is a
13 storage pond.

14 **MR. SMITH:** Well, instead of a
15 storage pond, that it could be -- you know, by
16 changing the outlets. Is that even possible?

17 **MR. BENNET:** No. The two
18 detention basins that we looked at would still
19 enter into Noble's Pond. Their outlets would
20 not be routed anywhere else, but into Noble's
21 Pond.

22 The purpose of it is, we investigated
23 those to see if any benefits in flooding could
24 be obtained by having more storage prior to
25 reaching the pond, giving more area or more

1 volume. So the volume of water coming into the
2 pond would create a shallower depth, because you
3 basically have more area accommodating that
4 water.

5 **MR. SMITH:** So the pond is
6 always going to be a pond?

7 **MR. BENNET:** The pond is always going
8 to be a pond.

9 **MR. SMITH:** Okay.

10 **MR. BENNET:** Yes.

11 **MR. SMITH:** Okay. Thank you.

12 **MR. REGULA:** Okay. Thanks,
13 Keith.

14 **MR. BENNET:** Thank you.

15 **MR. REGULA:** Please be aware
16 that the testimony and comments received at the
17 viewing on the proposed improvement held on
18 June 24, 2020, have been transcribed and are
19 part of record of these proceedings.

20 If you were present and addressed the
21 Board at that viewing, please do not offer
22 evidence which is repetitive, rather confine
23 your testimony today to any additional material.

24 We now call on the Petitioner for any
25 evidence that he may offer, which was not

1 already submitted at the viewing. Bob can you
2 come up and get worn in, please?

3 (Thereupon, the witness was sworn in
4 by the Court Reporter.)

5 **MR. LEIBENSPERGER:** My name is
6 Bob Leibensperger and I'm president of the
7 Noble's Pond Homeowner's Association, who filed
8 the ditch petition under review this evening for
9 the Noble's Pond Homeowner's Association.

10 We are in complete agreement with the
11 conclusions and recommendations of the
12 preliminary engineering report. We agree that
13 dredging the pond will not improve flood control
14 and that there is no adequate space available in
15 the watershed to make additional
16 detention/retention basins cost effective in
17 reducing siltation of the pond.

18 We agree that most of the siltation
19 is occurring from the stream between Fulton
20 Drive and Noble's Pond, when large bodies of
21 water cascade through the watershed north of
22 Fulton Drive, and that from erosion of the banks
23 should be eliminated by installation of
24 compacted backfill material with matting on the
25 eroding slopes; toe armor stone placed at the

1 bottom of the bank sides to reduce the
2 anticipated flow velocity and seeding and
3 planting of the improved portion of the ditch.

4 We also agree additional forebays
5 should be added as a means to collect debris and
6 silt before it reaches the pond. We do though
7 have two requests. The first is that the County
8 obtain an easement on both sides of the stream
9 between Fulton Drive and Noble's Pond that will
10 allow for the full future maintenance and clean
11 out of the forebays on an annual basis.

12 The second is that the County
13 investigates the work proposed on the stream
14 between Noble's Pond and Fulton Drive and see if
15 it would qualify for a Muskingum watershed grant
16 to provide the money to install those
17 improvements. Thank you.

18 **MR. REGULA:** Sir, you have
19 evidence you want submitted? I'll entertain a
20 motion to receive the material that was offered
21 as evidence at this time.

22 **MR. SMITH:** So moved.

23 **MS. CREIGHTON:** Second.

24 **MR. REGULA:** It's been moved and
25 seconded. All those in favor, say aye.

1 (Thereupon, all Commissioners
2 responded, aye.)

3 **MR. REGULA:** Motion carries.

4 Okay. We will now receive testimony from owners
5 affected by the proposed improvement. First,
6 from those owners in favor, and then those
7 opposed. We have been provided with a list of
8 names of persons desiring to offer testimony, or
9 evidence, to the Board.

10 If you are listed, you will be called
11 forward from that list. When I call upon
12 someone, please step up to the stenographer,
13 give your name and address and you will be sworn
14 in. Rick, do you want to do the honors in
15 calling people up, please?

16 **MR. FLORY:** Sure. The first
17 group will be those for the petition. John
18 Pigman.

19 (Thereupon, the witness was sworn in
20 by the Court Reporter.)

21 **MR. PIGMAN:** My name is John
22 Pigman. I'm a resident of Noble's Pond and I
23 also work with the homeowner's association to
24 help coordinate management and long-term care of
25 Noble's Pond. In that effort, I work with a

1 company called EnviroScience, which you have
2 heard mentioned a couple of times earlier.

3 And they have given us some
4 suggestions, which we find have been well taken
5 by the recent study that was done. I'm really
6 impressed with the preliminary engineering
7 report that was just gone over by the County
8 Engineer and the work done by the Environmental
9 Design Group. Those are findings that we
10 already basically knew and we agree with.

11 We know there are no detention ponds
12 north of Fulton Road and that for that reason,
13 whenever there is a heavy rain, all of the water
14 from those areas immediately rushes down through
15 the Rudy Friedman Ditch to Noble's Pond because
16 there is no other area for them to go.

17 There's 1,593 acres in that drainage
18 area. Just as an example, a couple of weeks ago
19 we had one and three-quarter inches of rain. It
20 was that weekend where there was a lot of rain
21 in a short time. Might have been close to two
22 inches. That caused the water in Noble's Pond
23 to rise two feet almost instantaneously because
24 of all of the drainage coming from upstream.

25 Running the numbers for a 13-acre

1 pond, that equates to 8,400 gallons of water
2 that basically, in just a few minutes, entered
3 the pond because there is no other detention
4 area for it to go. We looked at some numbers
5 just to kind of give you a mental picture of
6 what that looks like. It's 1,320 tractor
7 trailer loads full of water. And that is what
8 it takes to equal that amount of rain that comes
9 into the pond.

10 I don't want to go over anything
11 that's already been covered, but I do agree with
12 the suggestions that we follow the proposal from
13 EnviroScience. I think those are very sound and
14 I think that if we can adopt those and move
15 forward, that we will definitely have a ditch
16 petition that will be very effective and
17 eliminate the problems we are trying to
18 eliminate. Thank you very much. I have this
19 one slide to hand out.

20 **MR. FLORY:** Mike Olinger.
21 (Thereupon, the witness was sworn in
22 by the Court Reporter.)

23 **MR. OLINGER:** Good evening,
24 everybody. Thank you for your time this
25 evening. I know that time is of the essence

1 here, so I'll summarize and then I have three
2 handouts I wanted to provide to you.

3 So just like John and Bob had said, I
4 support the petition also and the results
5 prepared by Environmental Science Group. I'm a
6 homeowner at Noble's Pond and a member of the
7 homeowner's association board there.

8 As Keith was saying in the study, you
9 all were there, I guess, in late June, and you
10 looked at the pond before the dredging took
11 place. So I'm here to submit some slides that
12 show -- I'll hold them up here, and then I'll
13 hand them out to you.

14 But there were three slides, two of
15 which show the state of the pond after we
16 lowered -- after we lowered the water levels.
17 And you can see the sandbar as the creek opens
18 up into the pond. And so you get a sense of how
19 much buildup there was there.

20 And then as a result of that, as
21 Keith said, we've had some dredging take place
22 at the opening of it. And so then we have a
23 third picture that shows where we've deposited
24 some of the debris off of one of the holding
25 areas. I guess, as we viewed the pond, when you

1 all walked it, it was over to the left, there
2 was an open area there.

3 And we've got two significant areas
4 of buildup that we've deposited the debris in.
5 So I wanted to present those to you. And then
6 in context, the picture you'll see -- I just
7 walked it today, it's kind of settled out a bit,
8 but it's about three feet high on average, but
9 it goes, 30, 40 feet in one direction and is
10 significantly longer in the other. So it is a
11 significant amount of debris that we took out
12 there when we did the initial dredging.

13 And as Keith said, there is more
14 dredging to take place this month. So I will
15 submit these.

16 **MR. REGULA:** Okay. Could you
17 just give your name and address for the record,
18 please?

19 **MR. OLINGER:** Sure. Mike
20 Olinger, 7251 Charring Court Circle Northwest,
21 Canton 44718.

22 **MR. REGULA:** Thank you.

23 **MR. OLINGER:** Okay, thank you.

24 **MR. FLORY:** The next name is
25 Bob Tscholl.

1 **MR. REGULA:** Now, I know you're
2 an attorney, Bob, so you don't have to get sworn
3 in, but will you give your name and address for
4 the record, please?

5 **MR. TSCHOLL:** I'm perfectly to be
6 sworn in, if that's what the procedure is.

7 **MR. REGULA:** We know you're
8 going to tell the truth, so.

9 **MR. TSCHOLL:** Good evening,
10 Commissioners, guests. My name is Bob Tscholl,
11 5083 Paddington Down Northwest, Canton. I am
12 the volunteer lawyer for the Association.
13 Volunteer is the word there.

14 (Thereupon, the witness was sworn in
15 by the Court Reporter.)

16 **MR. TSCHOLL:** I want to thank the
17 Commissioners for giving us their time to
18 consider our petition. We believe that the
19 petition is a valid petition in that it improves
20 the overall system of the drainage. Even if
21 somebody is five miles away, it still improves
22 the system.

23 The forebay plan creates -- and I had
24 to look that word up, Commissioner Creighton --
25 it's actually an artificial reservoir. And

1 there is a distinction between retention and
2 detention also. The forebay concept is more of
3 a detention concept in that it intercepts the
4 silt and the sediment from five miles away that
5 comes into the -- into our pond, and creates a
6 better system for everybody.

7 And I believe that the benefits --
8 again, all the 16 or 1,700 acres and the parcels
9 on those acres that we are talking about. We
10 realize this is a case of first impression, and
11 we also understand that nobody likes to pay
12 additional property taxes.

13 However, the minimal amount that they
14 will be charged for this -- and I believe that
15 it is minimal -- will benefit the entire system.
16 And I want to thank you again for your time.

17 **MR. REGULA:** Thank you.

18 **MR. FLORY:** Steven Swinehart.

19 **THE REPORTER:** If you would raise
20 your right hand, sir.

21 **MR. SWINEHART:** Steve Swinehart,
22 4833 Lantern Hill Circle.

23 (Thereupon, the witness was sworn in
24 by the Court Reporter.)

25 **THE REPORTER:** State your name and

1 address for me again, please.

2 **MR. SWINEHART:** Steve Swinehart,
3 4833 Lantern Hill Circle, Canton, Ohio 44718.
4 My background is I'm a civil engineer and a
5 builder. I've live in Noble's Pond for about
6 13 years now. I've been volunteering on the
7 homeowner's association board for the majority
8 of that time.

9 I'm in favor of these recommendations
10 by the engineering report. I do have a picture
11 of the -- there is a box culvert that goes
12 underneath Fulton Road that -- when Fulton Road
13 was widened about ten years ago. Previous to
14 that time, it was a 48-inch culvert and that was
15 kind of a choke point for the flood waters.

16 I believe it would flood north --
17 just north of Fulton Road and that would slow
18 the water down to 700 feet south of Fulton Road
19 and there would be less erosion. Since the
20 widening of Fulton, the State put in a 13-foot
21 by 7-foot box culvert and there is no choke
22 point there anymore.

23 The water just is rushing through
24 there and we've experienced a lot of erosion in
25 the ditch, the southern 700 feet of the ditch.

1 So I'm in favor of remediating the ditch there
2 with the way the engineer stated in his report.
3 Any questions?

4 **MR. REGULA:** No thank you.

5 **MR. FLORY:** I apologize if I
6 say your name wrong, Aaron Brescia.

7 (Thereupon, the witness was sworn in
8 by the Court Reporter.)

9 **MR. BRESCIA:** My name is Aaron
10 Brescia, B-r-e-s-c-i-a. I live at 5081 Sweet
11 William Circle Northwest. So Mr. Leibensperger
12 asked me to testify as to the accumulation of
13 debris around the singular outflow track that we
14 have from the pond because I happen to live
15 basically on top of that pipe, so I get a good
16 view of it.

17 I have a photo here. I'm not sure if
18 it has already been submitted, but it's a
19 picture of the accumulation of vegetative matter
20 that pours into the lake and very rapidly
21 accumulates around the outflow pipe, which, of
22 course, slows the outflow of the water. So it
23 helps aid the very rapid rise we sometimes see
24 when the influx is impressively quick.

25 It is -- I bought the home six years

1 ago and very quickly learned that this is an
2 issue. And I actually put on waders and started
3 going out there and trying to debris it myself,
4 until I started looking down that pipe and
5 realized that were I to be sucked into that
6 pipe, then there would be helping me there.

7 So that is an ongoing expense of
8 maintenance that keeps the outflow healthy and
9 gives it the best chance possible to keep up on
10 the influx, which, as Mr. Pigman testified, can
11 be very, very rapid. So I have this photo here
12 and that's why I came to testify.

13 And if I could just have a comment
14 just in response, Madam Commissioner, to your
15 comment about how many people would be assessed,
16 or how many people would be benefitted here. In
17 my view, if your property, business or home are
18 north of Noble's Pond and you benefit from rapid
19 water outflux and, you know, a lower chance of
20 water accumulation in your neighborhood, then
21 you do benefit from this whole system.

22 It's not just the eight people who
23 live around the pond, it's everybody who
24 benefits from the water runoff. If your
25 neighborhood didn't build its own water

1 retention system, your property was less
2 expensive, your building costs were less
3 expensive, but that water comes to us. That
4 debris, that sticks and vegetation, all come
5 down -- all come down to this body of water.

6 So that is how everyone benefits by
7 the overall health of this system, not just does
8 people that live around it.

9 MR. REGULA: Thank you.

10 MR. FLORY: Scott Arnold.

11 (Thereupon, the witness was sworn in
12 by the Court Reporter.)

13 MR. ARNOLD: My name is Scott
14 Arnold. I live on 7711 Cheryl Lane. And I got
15 to tell you, this was a bit of a surprise when I
16 get this certified letter in the mail that you
17 all are wanting to put a 40-inch pipe in my
18 backyard possibly.

19 I've lived there for about 15 years.
20 My father-in-law lived there for another 26 more
21 years. And, you know, I'm sitting there going,
22 look, how am I contributing to this runoff?

23 So, you know, one of the things that
24 just frustrates me when I hear a lot about this
25 is the fact that, you know, we have Buehler's

1 shopping center, you know, a bunch of blacktop.
2 We've put in a lot of things, but it doesn't
3 look like, from a county engineer perspective,
4 that we really thought much about this. So my
5 frustration is, how did we get to this point?

6 My house has been there since 1976,
7 so, you know, I'm kind of questioning how much
8 I'm contributing to this, but nevertheless.
9 What I did is I went to out to a website and
10 it's called streamstats.usg.gov and it talks
11 about the flow rain drop path. And so I put my
12 address in.

13 Well, based on this, it shows that my
14 water flow almost goes directly south across
15 Fulton Road. And it continues to go and then it
16 routes west, right behind the Jackson South
17 Park. And then it continues into some
18 tributaries and eventually ends up in the Ohio
19 Canal.

20 So for this reason I would like to
21 have my name removed from this list as a
22 potential contributor to this water. I'm
23 willing to give this as evidence. And have a
24 response, if I could, once you guys review this.
25 Thank you very much.

1 **MR. REGULA:** Mr. Arnold, you are
2 opposing?

3 **MR. ARNOLD:** I am opposed;
4 that's correct.

5 **MR. FLORY:** I apologize. I'm
6 not sure how one of the opposing cards got with
7 in with the approving cards. I'm still reading,
8 through cards that are for the petition, but
9 you, sir, are now in the against column. So
10 we'll keep you there for now.

11 **MR. ARNOLD:** Just make sure
12 you've got me as against.

13 **MR. REGULA:** It's on the record.

14 **MR. FLORY:** The next for the
15 petition is George Juekovich. Again, I
16 apologize.

17 **MR. JUEKOVICH:** I'm George
18 Juekovich, 5075 Sweet William Circle Northwest,
19 Canton Ohio 44718.

20 (Thereupon, the witness was sworn in
21 by the Court Reporter.)

22 **MR. JUEKOVICH:** Thanks for the
23 opportunity to talk a little bit about our
24 situation here. I think I'm probably the lowest
25 house level on the pond. I'm the one that the

1 engineer referred to the -- I'm not sure if you
2 said "problem house," -- but the house that
3 floods in the 10 to 25-year situation and we've
4 lived through that, so.

5 I've got -- in 1994, my wife and I
6 moved into Noble's Pond and -- on Queensgate.
7 And then in 1998, we bought a lot that is right
8 beside Aaron Brescia's house that was originally
9 Judge John Hoffman's house. And we built and
10 moved in in November of 1998. The first flood
11 that we had was in July of 1999, so we weren't
12 even there a year.

13 And I think the biggest issue
14 associated with that was the drain, which, I
15 think, the whole property was still owned by Bob
16 DeHoff's company at the time. Bob decided that
17 didn't want anybody -- any little kids floating
18 down the drain, which we all agreed with.

19 And we wanted to be in position to --
20 he put a kind of a waffle type grid/grate on
21 top. So we had a big July 4th type flood, the
22 grate got clogged. The pond level rose up
23 significantly. You know, like real
24 significantly. As a result, they had to bring
25 in a backhoe and rip off that grid for the pond

1 to ultimately drain out.

2 But the consequences were that I
3 flooded, my basement flooded. It's a finished
4 lower level, 2,500 square feet that's as nice as
5 the upper level and that was a problem. So that
6 was July 1999. In February 2011 was the next
7 time we flooded. In that period of time, that
8 11, 12 years, Judge Hoffman and I took turns
9 cleaning up the debris that Aaron was talking
10 about.

11 We constantly had debris. Not only
12 just natural debris, but unnatural debris.
13 Little Tykes set, basketballs, garbage, plastic,
14 anything that you can think of, it came down
15 that pond and into my yard and John Hoffman's
16 yard. And we cleaned it up. We took care of
17 what we had to do and we did that for years and
18 years.

19 In May 2011, we flooded again. In
20 July 2011, we flooded again. I had, you know,
21 kind of had it up to here at that point. So I
22 did my best to try to get the County -- I
23 remember the engineer, the Stark County Engineer
24 was Gary Conner.

25 **MR. BENNET:** He worked with me.

1 **MR. JEUKOVIC:** He did? Okay. I
2 don't know all the particulars. But anyway,
3 Gary Conner was the contact I was dealing with
4 at the time and basically there was no remedy
5 for anything. So I decided that I needed to
6 take things into my own hands and try to make a
7 change. Contracted with the couple builders to
8 help me understands could I build a wall; what
9 could I do?

10 A lot of recommendations came
11 through. Ultimately, one was to build the dirt
12 up around my house so that we'd have a bunker
13 almost and grow grass on it and that type of
14 thing, but there was no guarantees that I wasn't
15 going to flood again, so we decided to build a
16 wall.

17 So we built a wall, basically it's
18 like a poured basement wall and I'll have
19 pictures for you guys so you will be able to
20 see. We built that wall at a significant cost.
21 The cost of that wall was approximately \$40,000
22 to get that done and it was basic. It was very
23 basic and aesthetically, very ugly.

24 Over time, we've spent
25 approximately -- in 2011 we spent \$85,000. The

1 wall; the other work that needed to be done
2 around the area; the repairs to our house that
3 was flooded; doors that had to be replaced on
4 the house so we wouldn't get leakage through
5 them. We bricked in a screened in porch area
6 that would flood significantly. We had three,
7 four feet of water in there.

8 And in the end, it's untested at this
9 point. So even though we built the wall, got
10 all these things there, the level of the pond
11 has never risen to our wall at this point in
12 time, so I still remain untested.

13 So since then, we've also,
14 aesthetically, added about another \$20,000 worth
15 of improvements to that -- our -- to make it
16 look livable at this point in time versus like,
17 you know, looking like a basement wall. So in
18 2011, all that work was done.

19 I did have a conversation with Gary
20 Conner. I wanted to get to this. He told me,
21 at the time, he said, "You should have never
22 been issued a building permit to build your
23 house on that property."

24 And I didn't quite understand why,
25 but he said the pond was designed to be able to

1 raise up and down ten feet. And I'm going to
2 say the level of my patio in the back was
3 probably four to five feet above the level of
4 the drain and that was about it.

5 And so, I think -- after I read the
6 report last night -- there was 178 pages, I read
7 the whole thing -- I have a better understanding
8 that any home wasn't supposed to be built below
9 the level of 1,070. I think ours sits at 1,062,
10 so we're about eight feet below that level at
11 this point in time. My wall takes me up about
12 another forty -- the wall takes me up
13 approximately four feet, so that takes me to
14 1,066, I think. Still four feet below that
15 level that was -- that was originally designed,
16 I guess.

17 I think when Gary told me that we
18 shouldn't be issued -- we shouldn't have been
19 issued a building permit, I said, "Well, why
20 were we then?" He didn't have any real
21 explanation for that. And, you know, as a
22 result, there was a time when I felt like our
23 property value was significantly decreased.

24 So our remedy was to go to -- I can't
25 remember; I think it might have been the County

1 Commissioners, it may have been the group we are
2 meeting with today. And the school board came
3 in and gave me an abatement for a period of time
4 to recoup some of those costs, which I think was
5 awesome and we appreciate that.

6 What I would like to do today is I'll
7 submit a series of pictures. Here is one that
8 goes back to the 2011 flood. This was in July.
9 Here is another picture that kind of shows
10 the -- looking out toward the north side of the
11 pond.

12 Here is the wall construction that we
13 did. And you can see that the wall construction
14 is like -- it's eight feet. About four feet
15 above the ground, four feet below the ground
16 with a foot and a half footer down below, so
17 just like a basement wall would be.

18 You can see, aesthetically -- this
19 was the wall when it was originally completed
20 and it looks like a poured basement wall, which
21 is exactly what it was. Since then, we've spent
22 significant dollars, about \$20,000, and you can
23 see -- I kind of like going and sitting down
24 there now, having a glass of wine. And then the
25 back of our house.

1 So what I would like to say, again I
2 appreciate you taking the opportunity to listen
3 to what I have to say. And I also want to say
4 that we support -- my wife and I, Vanessa and I,
5 my wife Vanessa and I support the report that
6 was put together and the recommendations we
7 think that will help continue to alleviate some
8 of the issues that we have personally. So thank
9 you. Thank you, again.

10 **MR. FLORY:** The next one is
11 Margaret Ondo and there was no for or against
12 selected at that time.

13 (Thereupon, the witness was sworn in
14 by the Court Reporter.)

15 **MS. ONDO:** Basically I had not
16 a clue --

17 **MR. REGULA:** State your name and
18 address.

19 **MS. ONDO:** Oh, my name is
20 Margaret Ondo, I live at 349 38th Street
21 Northwest in Canton. I didn't have a clue of
22 what was being asked of what was going on, so I
23 didn't know how to answer yes or no to something
24 I didn't have any details on.

25 But after listening to some of the

1 things that people have said, my heart goes out
2 to the people that have flooded homes, and I'm
3 sure they're beautiful up there, but I just
4 can't see a reasoning why so many people along
5 this route would be asked to contribute to fix
6 the problem and it looks like it is a severe
7 problem, but it looks like it's fixable down at
8 Fulton Road.

9 I just wish, and I don't know if
10 there is a way to help this get paid for other
11 than all the property owners, by fixing this
12 through another means other than -- and the
13 house that I'm talking about, I don't see the
14 map touching it. There is a possibility that if
15 you sent the letter, that it did.

16 It's up in McDonaldsville, Braucher
17 Street, and it looks like it doesn't go to the
18 green line.

19 **THE REPORTER:** Ma'am, I need you
20 to get closer to the microphone; I can't hear
21 you.

22 **MS. ONDO:** I'm sorry, I'm just
23 saying the house that I'm talking about on
24 Braucher Street up in McDonaldsville doesn't
25 look like it touches the green line, but, of

1 course, I don't see the streets. I just see
2 that. But I am against, like I say, I am
3 against all the people along that line paying.
4 But that is what I didn't answer yes or no. I
5 wasn't sure what this was all about; I hadn't
6 had a clue, I wanted to hear it first. So I'm
7 against. Good? All right.

8 **MR. FLORY:** I have one more
9 that didn't have a selection chosen, Steven
10 Paro. I believe, P-a-r-o.

11 **UNKNOWN SPEAKER:** Inaudible.

12 **MR. FLORY:** I'm sorry, I can't
13 hear you.

14 **UNKNOWN SPEAKER:** He left.

15 **MR. FLORY:** He left, okay. All
16 right. Thank you. Okay, these are against.

17 **MR. REGULA:** Yeah, Rick, use the
18 microphone, please.

19 **MR. FLORY:** These are against.
20 Nessib Abboud. Nessib Abboud, I apologize.

21 **MR. REGULA:** Please be sworn in,
22 sir.

23 **MR. ABBOD:** Yes, Nessib Abboud.
24 (Thereupon, the witness was sworn in
25 by the Court Reporter.)

1 **THE REPORTER:** Please speak
2 directly into the microphone and start with your
3 name and address, please.

4 **MR. ABBOUD:** I just want to
5 reiterate -- Nessib Abboud. My property
6 received a letter at 7520 Portage Street
7 Northwest, Massillon, Ohio. So I just want to
8 reiterate what the lady before me said. I was
9 shocked when I received this letter. This
10 building that I own --

11 **MR. REGULA:** I cannot hear you.

12 **MR. ABBOUD:** I was just
13 surprised when I received the letter. The
14 building I own, it's build in 1960s. It's been
15 there many years and we have no issues with
16 water. My heart goes to people that have these
17 issues, this problem, but I have no idea why I
18 received this letter. That is it. Thank you.

19 **MR. REGULA:** Thank you.

20 **MR. FLORY:** Joe Laureano.

21 (Thereupon, the witness was sworn in
22 by the Court Reporter.)

23 **MR. LAUREANO:** My name is Joe
24 Laureano. I live at 7224 Mears Gate Drive
25 Northwest, 44720. I live in the subdivision

1 called Windemere, Windemere PRD. It's back
2 right by the large water tower that's on Wales.

3 Our development was built -- it was
4 started in 2000. At the time that our
5 development was planned, water retention
6 facility was added. We, having taken care of
7 our water problem and addressing it downstream,
8 should be eliminated from any proceeding -- any
9 of this proceeding, because we have fulfilled
10 our requirements to take care of the watershed.

11 I feel for the people that are at
12 Noble's Pond. But I feel that we have taken --
13 we have done all our due diligence in assuring
14 that we do not add to any problems downstream
15 from us. As such, no assessment should be made
16 against us for problems that occur downstream.

17 I have a picture, if you wish,
18 showing what the pond that we have and it has
19 been -- it has the capability of rising over ten
20 feet on its current level. We have taken every
21 step needed.

22 I'd like to know if the engineer has
23 taken any other water retention or detention
24 facility upstream from this proposed work into
25 consideration. Are they aware of it? Have they

1 been made aware of it? Again, we have done
2 everything we should need to do according to the
3 statutes of the State and we should not be part
4 of this action at all.

5 Likewise, although I do not live
6 there, across the street, the new Wales Crossing
7 apartment complex they put in, they also put in
8 a large water detention facility right at the
9 entrance. You have seen it if you have ever
10 driven by. They have a retention facility that
11 is large rocks to prevent any silt, et cetera,
12 from going downstream.

13 They should, again, my opinion,
14 should also not be part of this. Do you have
15 any questions for me? Thank you.

16 **MR. FLORY:** Ray Braucher, Ray
17 Braucher.

18 (Thereupon, the witness was sworn in
19 by the Court Reporter.)

20 **MR. BRAUCHER:** I'm Ray Braucher,
21 4870, excuse me, Highmill Avenue, Massillon,
22 Ohio 44647. I'm here to represent my sister,
23 Ruth Self, who owns two acres on the original
24 Braucher homestead farm.

25 I just have a few things I'd like

1 to say. As far as the Noble's Pond, the issue
2 there, no doubt, is flooding. The question is:
3 When -- if they drain that, are they going to
4 destroy the Indian artifacts that they have been
5 digging there for years? How are they going to
6 do that without destroying the Indian artifacts?

7 My mother dug there many years ago
8 and I think they are probably still digging
9 today, that was an Indian camp. But anyways,
10 I've never seen -- I've never seen flooding. I
11 have been a Jackson resident for 72 years. I'm
12 very familiar with the Friedman property there
13 and the property north of there.

14 Because my grandfather originally
15 owned 48 acres there of the Braucher farm, which
16 on the east bordered Ellis Franks farm, which is
17 now in a development. And to the south, all the
18 way down to where the woods is, that was the
19 Brussen property. That was all my
20 grandfather's; it's been sold off.

21 Personally, I have never seen the
22 Friedman Ditch flood. For many, many years, I
23 drove by it every day; it's bone dry. I don't
24 see any reason to dig that part of the ditch up
25 anyway. There's hardly any water in there

1 anyway.

2 My concern is the north part on this
3 map, which is green going north, the first line,
4 if that represents a ditch, or a pipe, going
5 through the lake. Does anyone know that?

6 Is there a pipe? There has to be
7 some sort of pipe that goes north of the north
8 section of the Friedman Ditch, where it hits
9 Portage there. It goes under Portage and
10 somehow it's got to get up north. But I've
11 never seen -- I've never seen a ditch, so it
12 must be a pipe that goes for the overflow for
13 that lake that borders up there.

14 Anyway, my concern is this: My
15 sister got a notice about this meeting. I don't
16 see how this meeting can affect her. She has
17 now just two acres there of the original farm.
18 The green line you see going to right, I don't
19 know what that represents. Whose property does
20 that represent?

21 Without too much roadwork on there, I
22 can't tell exactly where it is, or whose
23 property it will affect. But I don't think my
24 sister's property has any affect on it, other
25 than there is water. It's been coming there for

1 years, for many, many years from that farm.
2 There is a spring house there; the water comes
3 down there.

4 It originally went through a
5 four-inch drain pipe that went down to the
6 corner, right where that lake is and joined two
7 other streams, dry streams, that joined right
8 there, then went down and went across, but that
9 has been all changed.

10 So I would like it if somebody can
11 give me the information on why she was
12 contacted -- I don't believe she should be
13 assessed for anything. I don't think any of her
14 property touches any of that green line. That
15 is all I've got to say. Thank you.

16 **MR. FLORY:** Peter Soehnlen.
17 (Thereupon, the witness was sworn in
18 by the Court Reporter.)

19 **MR. SOEHNLEN:** Peter Soehnlen III,
20 6525 Wales, Massillon. In the petition filed by
21 Noble's Pond Board of Directors on behalf of The
22 Villages Association, who are the owners of
23 Noble's Pond, in the petition, it is their
24 contention the flooding portion of the complaint
25 is caused by over 1,600 property owners of the

1 1,700 acres north of the pond.

2 When, in fact, the reason flooding
3 occurred during heavy rains is in the engineer's
4 report. That is in the preliminary report that
5 they just turned in on Friday. In that report,
6 the five parcels that are believed to have
7 suffered flooding had been built per the 1989
8 engineer's report that stated, "Homes should be
9 built at a minimum of 1,074 feet." If that had
10 been done, these homes would not have flooded,
11 or not flood currently.

12 The engineer's report was amended, or
13 added to, in '93 and checked in '94, in order to
14 add a 48-inch drain pipe. Somehow, the numbers
15 have changed and instead of -- instead of -- it
16 dropped it. It dropped it seven feet where the
17 level of the homes could be.

18 If the homeowners purchased a home in
19 the lowest land in the 1,700 acres of
20 drainage -- of drainage area, it's the
21 prospective buyer's, or their agent's,
22 responsibility to take all that information into
23 account before making purchases.

24 In the Noble's Pond private drainage
25 district agreement that went into effect in

1 January of 2005, it is stated that had the
2 property owners south of Fulton and east of
3 Wales were the authority established to maintain
4 the integrity of Noble's Pond as well as the
5 outlet and inlet.

6 It was noted in the preliminary
7 report that the silt claimed to be filling
8 Noble's Pond is coming from that district. The
9 course of silt filling the pond is coming from
10 south of Futon, east of Wales.

11 I'm presenting evidence in a photo
12 from what Noble's Pond looked like in 1988 and
13 '89, prior to any of that development. This
14 evidence shows the pristine condition of Noble's
15 Pond. It also should be noted that the pics
16 were taken from a V-bottom boat that was able to
17 navigate completely around the pond to take
18 these pictures.

19 This boat was brought in on a trailer
20 and put into the pond. Since the pond is a
21 glacial feature, it has been a retention pond
22 for the 1,700 acres since the glaciers receded.
23 I'm presenting more pics that show the farmland
24 surrounding the pond before the topsoil was
25 removed and excavation was done. Excavation

1 that caused the silting problem noted by the
2 preliminary study as being south of Fulton.

3 It should also be noted that the
4 former Commissioner Cirelli addressed the
5 silting issue in a meeting with the developer
6 that was given tax money from the County to fix
7 the silting problem. In that meeting, she noted
8 that had the silting could be occurring because
9 of the stripping of topsoil and the movement of
10 fill into the ditch area.

11 The preliminary report states that
12 there would be no benefit in regards to flooding
13 by dredging the pond. Therefore, the only
14 benefit by trying to curtail silting that is
15 coming from the south of Fulton, would be
16 aesthetic. And since this would only benefit
17 the pond owners, it should be their
18 responsibility, as stated in the Noble's Pond
19 Drainage District agreement the property owners
20 are members of that district.

21 Therefore, it is the homeowners of
22 parcels 16 -- excuse me. The homeowner at 6525
23 Wales that believes no tax dollars should be
24 used toward this petition. It also the parcels
25 owner's desire to be removed from this, or any

1 future tax liability regarding this petition
2 since the parcel at 6525 is 2.8 acres, has a
3 small 1,500-square foot home with a circular
4 driveway.

5 It also does not have a ditch, swale
6 or pipe leaving or existing the level land.
7 Therefore, any runoff stays there. No runoff
8 from that property enters the Friedman Ditch.
9 Thank you.

10 **MR. FLORY:** Tina Perrin.
11 (Thereupon, the witness was sworn in
12 by the Court Reporter.)

13 **MS. PERRIN:** My name Tina
14 Perrin. I live at 5940 Chelsea Street
15 Northwest, Massillon 44646. I'm opposed to this
16 project for many reasons, but I'll only go
17 through a few facts to save time.

18 First of all, the petition states the
19 allotments that would benefit from this project
20 and my allotment, which is Jackson Meadows II,
21 is not mentioned, it's not one that is going to
22 benefit from it.

23 Secondly, Exhibit 2 of the petition
24 states all the land owners who will benefit from
25 this project, or their property damaged from

1 this project. I am also not on that list, but
2 somehow I got a letter. And thirdly, the water
3 in my area does not go into the Rudy Friedman
4 Ditch or Noble's Pond. We go south into the
5 Tuscarawas River into the Ohio Canal and I have
6 proof of that from the United States Geological
7 Systems that I want to submit.

8 So because of these things and other
9 things, I need to be removed from this project.
10 It is not a benefit for me. Water from my area
11 does not go into the Rudy Friedman Ditch or
12 Noble's Pond. Someone said earlier that the
13 assessment would have been from the residents
14 would be minimal, but we have to understand,
15 minimal for some people is a lot of money for
16 other people.

17 I don't think that should be taken
18 into consideration that some people feel it is
19 minimal because everybody is in different
20 circumstances, especially now. That is it. I'm
21 opposed. I wanted to submit this as evidence.
22 Thank you.

23 **MR. FLORY:** Ronald Stark.
24 (Thereupon, the witness was sworn in
25 by the Court Reporter.)

1 **MR. STARK:** Ronald Stark, 6983
2 Fulton Road, Canton, Ohio. I don't know where
3 to start; there is a lot that I could say. I
4 lived in an old white brick farmhouse just north
5 of Fulton.

6 That creek or ditch, whatever they
7 call, it runs through my property. When I moved
8 in there 45 years ago, that creek was four feet
9 wide, it's 16 feet wide now. What caused that?
10 The relentless building of Jackson Township and
11 their greed for more tax revenue. Stark County
12 and their greed for more tax revenue. Now it is
13 flooding.

14 It doesn't affect me, but it affects
15 the people of Noble's Pond, they built there.
16 It would be just like somebody building on the
17 Ohio River, and then it floods every spring. So
18 they're going to go to Pittsburgh and say, "Hey,
19 you're going to pay to fix my property." It's
20 part of the watershed, clear to Pittsburgh, even
21 further.

22 And the last meeting they had,
23 Mr. Regula said we could ask questions at this
24 meeting. Evidently he lied; we are not allowed
25 to. But I do have one question. This gentleman

1 here said that they plan on dredging the ditch
2 putting stones on the bank and such.

3 How are they going to get access to
4 it? Are they going to drive through my yard
5 with bulldozers and backhoes and dump trucks and
6 tear the hell out of everything?

7 Are they going to the stuff on my
8 property and leave? See, I can't get an answer
9 from anybody.

10 **MR. REGULA:** You can get an
11 answer if you submit it to the website.

12 **MR. STARK:** Well, Mr. Regula
13 said we would get answers here.

14 **MR. REGULA:** I misspoke.

15 **MR. STARK:** That is all I have
16 to say.

17 **MR. FLORY:** Steve Wessell.

18 (Thereupon, the witness was sworn in
19 by the Court Reporter.)

20 **MR. WESSELL:** Steve Wessell, 7239
21 Ashmoore Avenue Northwest, North Canton, Ohio
22 44720. I believe Madam Councilwoman's question
23 to the County Engineer answers why so many
24 people are against this. I too am against this.
25 I am three and a half miles northwest of Noble's

1 Pond. I live in an HOA that was required at its
2 inception to install a storm management pond.
3 Our system has never exceeded its capacity due
4 to over-engineering.

5 Our retention leads to two other
6 ponds, which are also over-engineered and
7 contain the stone that helps catch the sediment,
8 and from there it then proceeds to Tuscarawas.
9 My HOA fees paid for the maintenance of my pond
10 and as should Noble's Pond.

11 I do sympathize for Noble's Pond, but
12 I also take into consideration that I had to
13 spend over \$6,000 to mitigate my own property
14 water issues caused by others' water that was
15 perk of being a homeowner and property owner.

16 Because of this I demand to be
17 removed from this project and all further
18 consideration. Thank you.

19 **MR. FLORY:** Mary Ann Morrison.

20 **MS. MORRISON:** Hello.

21 (Thereupon, the witness was sworn in
22 by the Court Reporter.)

23 **MS. MORRISON:** Mary Ann Morrison,
24 6622 Harbor Drive Northwest, Canton, Ohio.
25 Thank you for letting us have this opportunity.

1 First, I would like to thank Mr. Rick Flory for
2 his response to a letter that I sent to the
3 Commissioners and to Mr. Flory asking about the
4 possibility of what I have now been told is a
5 depression, not a pond, a depression in my
6 backyard area.

7 And we were hoping that if we were
8 going to be included in the Noble's Pond issue
9 that we could have our area dredged as well,
10 because we've experienced the same issue that
11 the people at Noble's Pond are experiencing and
12 we have not had any help from the County or the
13 Township.

14 I personally, and neighbors that live
15 by us, have to incur our own expenses, thousands
16 of dollars, to remove the brush and also the
17 things like the baseballs and the bottles and
18 all the garbage that comes down, because we have
19 a big storm sewer that dumps into that area and
20 we pay for that ourselves.

21 What I wanted to offer into evidence
22 was the letter that Mr. Flory sent me dated
23 Thursday, August 13th. And in it, as a
24 courtesy, which was very nice and I appreciate
25 this, he said Stark Soil and Water Conservation

1 District would evaluate the area of the
2 depression behind our homes and see, you know,
3 what the situation was there.

4 And so I've attached his letter and
5 the summary. And basically there's four spots
6 that I'm going to read, and I've highlighted
7 them in yellow, so you will be able to enter
8 them into the record.

9 In Mr. Flory's words, he says that
10 our deed and those adjacent to the pond
11 referenced in the easement that run across the
12 back of the property line and the north 50 feet
13 have flooding and drainage purposes set forth in
14 the plat.

15 "Upon examination of the photos you
16 provided," -- I gave pictures of the flooding --
17 "the high water which accumulates on your
18 property is within that easement."

19 Furthermore, when they asked the
20 Stark Soil and Water Conservation to take a look
21 at our area, it says, "Per the plats, the owners
22 knowingly purchased properties with drainage
23 easements, flood easements and mucky soil.
24 Storm water management is part of the properties
25 from their development."

1 So we knowingly -- although I didn't
2 know this -- we knowingly bought this land and
3 that that's part of the situation. Further
4 quote, "Detention basins are intended to
5 eventually allow storm water to drain slowly
6 when the water level recedes from the channels
7 after rain events.

8 "Dredging the basin of the
9 accumulated silt and leaves that fall are the
10 responsibility of the parcel owner. This could
11 be viewed as a neighbor to neighbor dispute."
12 And lastly, from their letter that they sent me,
13 "Storm drainage and drainage of a property in
14 general falls under the liability category of
15 property ownership."

16 And so if this was the situation for
17 the people that live on Harbor and Salerno that
18 we are responsible -- and I understand that and
19 I accept responsibility for that. I will
20 continue to pay to have our debris and our
21 dredging and everything that we do. You know,
22 we'll continue to do that.

23 Then I don't feel that we should be
24 responsible for people that live in that
25 neighborhood -- in Greenbriar -- we should be

1 responsible for helping the people, which I
2 extremely sympathize, especially with the
3 Juekoviches. I know them. I had no idea that's
4 whose home was mostly affected.

5 But yet, when you buy that property
6 and it is on the water -- just like we love this
7 little pond behind us when it looks nice and
8 isn't flooding -- that's part of the homeowner's
9 responsibility.

10 So I want to submit into evidence the
11 letter that I received from Stark County from
12 Mr. Flory.

13 **MR. FLORY:** Patricia Rubin.
14 (Thereupon, the witness was sworn in
15 by the Court Reporter.)

16 **MS. RUBIN:** Patricia Rubin,
17 R-u-b-i-n, 6598 Harbor Drive Northwest, Canton,
18 Ohio 44718. I believe I should be excluded from
19 this based on Figures 1 and 2 in the petition
20 that's online that was posted on September 18th.

21 My property falls outside of the
22 Noble's Pond watershed subdivision, so I don't
23 understand why I would be included or have any
24 tax liability assessment or anything like that.
25 And I would appreciate, I guess, a revised

1 listing of the property owners the would be
2 involved, or a letter stating I'm not included
3 in this map that is on your website.

4 **MR. REGULA:** Thank you.

5 **MR. FLORY:** Mike McGurk.

6 (Thereupon, the witness was sworn in
7 by the Court Reporter.)

8 **MR. McGURK:** Yes, my name is
9 Mike McGurk, M-c-G-u-r-k, and I live at 6646
10 Harbor Drive. Ms. Morrison and Ms. Rubin are my
11 neighbors and what they have explained here
12 today, I'm in agreement with.

13 I do sympathize with Noble's Pond,
14 but a lot of the problems that we are talking
15 about hear originated years ago. And when you
16 continue to build -- I mean, there is nothing
17 wrong with progress, but progress at the expense
18 of, you know, having a safe place to live
19 without worrying about the water rising in your
20 house. So there needs to be a balance there.

21 But I don't know; that is probably a
22 discussion for another meeting, but hopefully,
23 that can be resolved. Because if we are sitting
24 here talking about spending money on curing a
25 problem and at the same time we're exacerbating

1 the problem by building and building and
2 granting and granting all these building rights
3 to people and it's like a circle, you just keep
4 going around and around.

5 We'll be here, not me, somebody will
6 be here again in 20 years talking about the same
7 things. So the issue goes deeper than just the
8 flooding. It goes to the responsibility of the
9 people in charge for adequate planning and
10 administration and I have no idea what the
11 answer is to that. It ought to be addressed by
12 somebody who does. Thank you.

13 **MR. FLORY:** Richard Dinko.

14 **MR. DINKO:** My name is Richard
15 Dinko. I reside at 5584 Foxboro Avenue
16 Northwest. First of all, I'm speaking against
17 the petition, by the way. I would like to thank
18 the Stark County Commissioners for their
19 diligence in addressing this ditch petition and
20 allowing us to participate in the process. Your
21 professionalism and patients in helping us
22 navigate the process is appreciated.

23 I've lived at my residence for over
24 30 years. Approximately 25 years ago, we had a
25 large drain pipe upgrade down the side of our

1 property to adequately drain the Foxboro Plaza
2 and that feeds into the Rudy Friedman Ditch and
3 the parcels in our neighborhood also run
4 alongside the ditch.

5 From what I understand, the property
6 that we're discussing that is seeking this
7 petition and improvements is part of a 284-acre
8 parcel that was owned by the Timkins and sold in
9 1987 to the Wilmot Developing Company.

10 If anybody remembers 30 years ago,
11 that entire corner was a cornfield. So the fact
12 that there is no easement for the ditch, south
13 of Fulton, is not surprising, because there was
14 nothing more than a farm that had a swale ditch
15 that went to their pond. Whereas, the other
16 properties developed north of Fulton, that
17 included easements for the ditch that ran
18 between all of those plotted allotment lots.

19 So when I read the engineer's report,
20 I'm concerned in a couple matters. One, the
21 700-foot of ditch improvement south of Fulton,
22 it alludes to the fact that there are no
23 easements for that ditch. That would make sense
24 under the original parcel design.

25 I am concerned that that's commercial

1 property. So if you do need to acquire
2 easements, the cost of acquiring those easements
3 would be more expensive than a normal
4 residential lot and that burden would fall on
5 everyone more egregiously.

6 Secondly, the ditch -- the 700 feet
7 of ditch improvement -- I'm assuming -- is there
8 about 12,000 feet of ditch? Do you know the
9 length of the Rudy Friedman Ditch? I just used
10 the scale of 12 to 15,000 feet, so we are
11 talking about 12 to 15,000 feet of ditch. Ten
12 sites in the engineer's report that show
13 evidence of erosion that could be addressed.

14 Those sites were harder to access
15 because they are entangled in private residences
16 and have a lot of growth. But 700 feet that is
17 pretty much in the open on commercial property.
18 I think there was some adjustments to that ditch
19 area when that land was leveled for building
20 purposes.

21 Again, that's a commercial parcel and
22 I would feel as though the responsibility for
23 maintaining that ditch, which isn't even
24 technically under an easement, would fall on
25 those commercial property owners. The inlet

1 restoration, I am concerned about the Petitioner
2 citing a specific vendor. I don't feel as
3 though that is appropriate.

4 The engineer's report is very
5 thorough. But embedded in the engineer's report
6 are private quotes from a company that the
7 Petitioner worked with including prices and
8 plans and those were simply embedded into the
9 proposal that we're hearing today.

10 I think that those private quotes
11 would be more adequately addressed by the
12 drainage authority since it falls within the
13 jurisdiction and by Noble's Pond Homeowner's
14 Association, who, by taking on the pond in the
15 deed of instrument, it clearly indicates that
16 they are responsible for maintenance and upkeep
17 of the pond.

18 So they acquired, through deed, a
19 piece of property that included the
20 responsibility of the maintenance that now they
21 would like to pass that burden on to someone
22 else. My other concern is the forebay expansion
23 and the cost of \$110,000. Again, that is an
24 EnviroScience proposal. Private, contract
25 proposal that the Petitioner included.

1 I would assume that would go out in a
2 bid process if it were even considered. And
3 there was no real data included to indicate any
4 lessening of the flow rate, sediment deposit
5 rates, et cetera. It was kind of a generic
6 proposal, \$75,000. I was just surprised to see
7 that in the report.

8 Per the engineer, we're told there is
9 no affect to the drainage efficiency and
10 capacity of Noble's Pond, despite everything
11 that's in this proposal. You might have to
12 improve water quality, but there was no evidence
13 that the water quality was poor.

14 There was no documentation of water
15 quality studies, there was no evidence that
16 there's any type of nitrate phosphate
17 accumulation or any degradation of the water
18 quality of the pond.

19 I understand that there might be
20 increased algae bloom. But from just driving
21 the parcels around the lake, you can see the
22 signs posted in front of the drives, "Do not
23 walk on lawn. Recently fertilized."

24 So if the Noble's Pond Homeowner's
25 Association is not -- doesn't feel like they're

1 contributing through lawn fertilizer, et cetera,
2 into their own pond, that's a consideration that
3 they need to take on.

4 Lastly, I would just like to say that
5 ORC 6131 does provide for a ditch petition
6 process, but if you look at the guidelines,
7 water disputes are clearly a civil matter. I
8 implore you not to go down this slippery slope
9 of making a decision that's going to set
10 precedence.

11 I think about the Zimber Ditch. I
12 think about anybody along the Tusc that floods
13 and the precedence we would be establishing by
14 simply being able to make a proposal, have it be
15 adopted and back charge the entire watershed for
16 the burden.

17 Some of the points brought up during
18 earlier discussion, the 48-inch choke point
19 under Fulton, the engineer's report clearly
20 states that there's no affect to the culvert
21 that was put in, the box culvert, that it did
22 not affect the flow rate. Some of the
23 engineering reports were very clear on the
24 matter.

25 And unfortunately, their most, I

1 guess, egregiously harmed client, the gentleman
2 whose house is underwater, because it was built
3 in the 10- to 25-foot flood plane level
4 designation, out of his own mouth said, "I was
5 told to expect the pond to increase up to ten
6 feet, so I probably shouldn't have built there."
7 It's a lesson to learned, but it isn't a lesson
8 that should be a burden to all of the taxpayers
9 in the watershed.

10 I think, in hindsight, if you think
11 about that pond and the original design and
12 ensure the load that was put into it, it's like
13 an organism. Yeah, the pond could raise ten
14 feet. A lot of the berms and banks around the
15 pond, if you look at older aerial photography,
16 the vegetation growth and the design, when they
17 came in and relandscaped a little bit, they also
18 did some damage to overall -- overflow areas to
19 the northeast.

20 Just simply raising one or two feet
21 by putting in a walking trail, or little berm,
22 or whatever you choose to do, affects all those
23 overflow areas where that water can hold, and
24 drain into the pond and out the outlet.

25 So I am speaking against the

1 petition. My points are that the improvements
2 should be beared [sic] by the drainage authority
3 and commercial properties. The commercial
4 properties that develop that area should have
5 drainage easements already under agreements and
6 they have a retention pond that is built on
7 the -- I guess, it would be on the east side of
8 Wales, where there is an extra retention pond
9 there. And there's probably 30 acres still to
10 be developed in that area.

11 And so we are talking about a large
12 amount of real estate. Altercare Noble's Pond
13 is valued at \$4.1 million on the tax auditor's
14 website. The Marketplace at Noble's Pond, \$12
15 million. Noble's Pond, LLC, holding 21 acres
16 for future commercial development. Aultman
17 Health holding 15 acres for future commercial
18 development and the drainage authority that
19 they're all involved to address drainage issues,
20 which they are bringing up.

21 The EnviroScience proposals are
22 inappropriate in this consideration as well.
23 Thank you for your time.

24 **MR. FLORY:** I'm going to need
25 somebody's help with this one, Mr. James

1 Zaffino?

2 **MR. ZAFFIRO:** James Zaffiro, I
3 represent Foxboro Shopping Center, Ltd, at
4 Northwest Fulton.

5 (Thereupon, the witness was sworn in
6 by the Court Reporter.)

7 **MR. ZAFFIRO:** Unfortunately the
8 manager --

9 **MR. FLORY:** State your name.

10 **MR. ZAFFIRO:** Oh, James Zaffiro.
11 I'm at 5345 State Road in Parma. I represent --
12 I'm an attorney who represent the shopping
13 center, Foxboro Fulton, Ltd, ownership.
14 Mr. Paro was here earlier as a representative of
15 the shopping center also; he is the custodian.
16 He did have to leave to attend to some family
17 business.

18 I just wanted to go on record for
19 Foxboro stating that they are opposed to the
20 petition. The only parcels who benefit from the
21 petition are those are those of the owner's
22 association.

23 The evidence has shown that there has
24 been studies done and development was done,
25 which was not in conformity with the studies.

1 And now they are expecting the community and
2 everyone upstream to bear the burden of the cost
3 to fix what they did.

4 There has been no evidence that this
5 is showing benefit to Foxboro Shopping Center
6 and little evidence to show there's going to be
7 benefit to any other properties that are going
8 to be affected and the only benefit would be to
9 the homeowners. Thank you.

10 **MR. FLORY:** Gary Connor.
11 (Thereupon, the witness was sworn in
12 by the Court Reporter.)

13 **MR. CONNOR:** Gary Connor 7260
14 Charring Court Circle. Hello to the Board.
15 Nice to see you guys again, Robert, Keith. Boy,
16 I didn't think I would ever see this happen and
17 it is a tribute to Robert and his unending
18 dedication to this cause.

19 I moved to Noble's Pond in 2001 and
20 joined Bob on the very first homeowner's board
21 and attended the meeting at which Bob DeHoff
22 handed this situation over to the homeowners.
23 And we thought we could handle it, I guess. We
24 established a HOA structure that assessed
25 ourselves over the years for the cost of

1 maintaining this. Now, that is a vague term
2 "maintain."

3 There have been improvements done by
4 the association. After three years, I escaped
5 the board. Robert has stayed on; he has been
6 the President from the beginning.

7 And a couple of things have been very
8 misstated. Janet asked the question earlier
9 about who would bear the brunt of the
10 assessments. That would be the largest property
11 owners that have the largest impervious surface
12 and there are a number of those entities that
13 have very large totally impervious surfaces and
14 therefore, would, I'm pretty sure -- I haven't
15 read the report and I haven't seen it.

16 But then I know that the first stage
17 is very preliminary. But I think it will show
18 that the largest contributors are Jackson
19 Schools; DeHoff Enterprises or Wilmo; Jackson
20 Township, the parks, the highway department, the
21 Township Hall; the Foxboro plaza, which was just
22 represented here; Stark County roads.

23 A large percentage -- well, I
24 shouldn't say a large percentage, but many, many
25 acres of the watershed, I would guess, maybe

1 15 percent of the watershed, is road
2 right-of-way. Some of it is county road
3 right-of-way, along Portage Road. Much of it is
4 ODOT road right-of-way. 241 and 687 are major
5 contributors to this. Let's see, who else?
6 Well, that is pretty much -- township, ODOT,
7 Stark County.

8 So those, when they do the final
9 calculations, those are the people who are going
10 to get hit the most. I have no idea where those
11 calculations are going to go, but nobody is
12 going to be happy with that.

13 What else? There were misstatements
14 about associations and allotments upstream, who
15 have just been kind of letting their water go.
16 Basically the allotments that were approved
17 before Stark County passed their storm water
18 regulations -- I don't remember what year that
19 was -- the ones that predated that, yeah, they
20 just kind of turned their water loose.

21 The ones since -- and there are many
22 of them -- a couple of the owners spoke here
23 earlier about various developments. I used to
24 live in Greenbriar Hills before I lived in this
25 one and there are large natural wetland areas

1 that do a tremendous job of holding water back
2 from Noble's Pond.

3 So it's not like everybody upstream
4 just got away with murder; it's not true. There
5 are many areas that will have to be evaluated
6 and the board will probably have to make a
7 decision as to whether those people deserve a
8 break.

9 I'm not sure how the law deals with
10 those kinds of reductions upstream. Are they
11 excluded because there HOAs are probably paying,
12 just like we do. Usually this process never
13 gets to this stage in an urbanized area, it just
14 doesn't. In my 50 years with Stark County
15 government, from 1969 to 2019, I never once was
16 involved in a hearing like this.

17 It was discussed by many boards on
18 many occasions and the cost of the process
19 usually was the end of it. Because the -- you
20 know, when you have -- I don't know how many --
21 over 1,000 owners in this watershed, identifying
22 them, title searches, registered mail and you
23 have only just begun on this one -- usually
24 prohibit the idea of spending taxpayer's money
25 like that.

1 For many years, we have discussed the
2 fact that if you have these problems all over
3 Stark County and you have chosen to make this a
4 case study, maybe. But can you do this 50 times
5 a year, 100 times a year? You know, once you
6 start going down this path -- well, I think the
7 answer is storm water utility, everybody creates
8 water, everybody pays.

9 And so when I filled out my card,
10 that was just to get entrance here, I put, no.
11 I'm not totally against any kind of
12 infrastructure improvements, you know that. I
13 put down no just to get in the door.

14 A couple other things, in my opinion,
15 there is no flooding at Noble's Pond and I don't
16 think anybody needs to feel sorry for us or
17 anything like that. Because I visibly remember
18 the meeting with the architect who designed John
19 Hoffman's house.

20 And about six months before, we had a
21 meeting in the County Engineer's office. It was
22 called by the fellow that was the County Flood
23 Plan Administrator, his name escapes my mind
24 now. This was like 20 years ago.

25 And he said, "Gary, these people have

1 a building permit application and it scares the
2 hell out of me. How are we going to stop them?"
3 And we got ahold of probably David, he's been
4 there as long as I have.

5 These people are not in the FEMA
6 floodplain. The Federal Government has not
7 identified this as a problem area. But our
8 design of the improved outlook on Noble's Pond,
9 the 48-inch pipe, which I approved, was based on
10 a certain freeboard, it went to a particular
11 elevation. No one was ever supposed to breach
12 that elevation. In fact, per the commissioners
13 agreement with FEMA, I think you are supposed to
14 stay a foot-and-a-half above it.

15 Well, this architect was a
16 particularly arrogant individual and he brought
17 his lawyer to the meeting and he said, "You
18 can't stop me." And Prosecutors Office said,
19 "He is right; we can't stop I him," and he built
20 the house. Not too long after, I ran into John
21 Hoffman at the Stark County Fair at his booth
22 and he was telling me that he bought this house
23 at Noble's Pond.

24 And I said, "Oh my God, you don't
25 mean you bought that house?" And he said, "Oh,

1 my wife loved it. She absolutely loved it." I
2 said, "Well, here's my advise John, you brick up
3 that lower level walkout and you fill the back,
4 because your first floor is just fine."

5 Subsequently, he didn't do that, of
6 course. He suffered over and over and over and
7 called me every time. I was, of course, living
8 right there close to him, so. But he got out.
9 I don't know who he sold it to. It may have
10 changed hands a few times.

11 And then George subsequently
12 purchased the lot close by and repeated the
13 mistake by building at an elevation where he had
14 a beautiful walkout basement, beautiful home,
15 wonderful situation, except when the big storms
16 come. George spent a lot of money, did a lot of
17 positive things to protect his own property and,
18 I guess, he has been okay, good for him.

19 But to involve 1,600 people, or
20 whatever it is, in the problem of a couple, it
21 seems like, you know, if this problem was on a
22 list of priorities for Stark County -- somebody
23 mentioned Zimber Ditch earlier -- oh, my God. I
24 mean, we've torn out how many houses on Zimber
25 Ditch, already? And there are many more that

1 have yet to be removed, because that is what you
2 do when you have a serious problem.

3 But, you know, the cost of moving
4 forward here, it might be a great test case. If
5 you decide to find for the improvement, I'll
6 follow it carefully, just to see -- and I don't
7 know how much money we spent so far, but I have
8 a feeling that the future cost is really going
9 to be exorbitant.

10 And it's not that the assessments
11 will be huge for the average homeowner, but it's
12 the idea. And, you know, where are we going to
13 go with this thing? How much is it worth?

14 You know, the allotment association
15 recently did a heck of an improvement and they
16 did it with our regular annual dues, which have
17 been increased over the years. And, you know,
18 it is not permanent, it will never be permanent
19 because of the nature of the problem.

20 It is quite unique to have a
21 watershed this big that's sort of dead ends.
22 Because if you remember, originally, there was
23 no outlet for Noble's Pond, except for the
24 aquifer and it is very difficult to quantify the
25 aquifer that used to flow west under Fulton Road

1 and come out somewhere in Jackson nature bog
2 area.

3 According to the Timken story, over
4 the years, they've said that it worked
5 beautifully until they started development
6 upstream in the '70s. The silt came down,
7 blocked the aquifer. But, you know, there's
8 been talk about could we reopen the aquifer?

9 It's hard to quantify that and it's
10 probably way too much water for that to ever
11 work again. So the storm sewer was built and I
12 think the County spent some money. I don't
13 remember how much, but the County, I believe,
14 had some funding in that outlet.

15 That was probably in the mid -- I
16 don't know; around 2000, or something like that.
17 Anyway, well, I guess, I don't have anything
18 else to say, other than that \$8.2 million was a
19 bit of a shock. I can't wait to read the
20 report. But anyway, I don't have anything else
21 to say. Pretty thick, huh? But the next one
22 will be much thicker.

23 MR. REGULA: Thanks for your
24 services.

25 MR. FLORY: The last I have

1 Anita Rabaa. This was one that was actually for
2 the petition.

3 (Thereupon, the witness was sworn in
4 by the Court Reporter.)

5 **MS. RABAA:** My name is Anita
6 Rabaa, spelled Rabaa. My address is 5086 Sweet
7 William Circle Northwest, Canton. I don't have
8 too much to say, though I agree with Bob and all
9 of the people from Noble's Pond. I'm on the
10 board of Noble's Pond and I live right across
11 from the house that flooded.

12 I bought in 1993, I believe, and
13 didn't build until two years later. And by that
14 time, the house right across the street was
15 owned by John Hoffman. And very shortly after
16 that, it flooded and it has been ongoing since
17 then.

18 I just wanted to say that I agree
19 with what the people from Noble's Pond said and
20 I thank you for listening to us. Thank you.

21 **MR. REGULA:** Okay, thanks
22 everyone who came to testify. I will now
23 entertain a motion to receive the engineer's
24 preliminary report, together with the written
25 applications, all the evidence that was

1 submitted in remonstrance into evidence.

2 MR. SMITH: So moved.

3 MS. CREIGHTON: Second.

4 MR. REGULA: It's been moved and
5 seconded. All in favor say?

6 (Thereupon, all commissioners
7 responded, aye.)

8 MR. REGULA: Motion carries.

9 Having heard the evidence in favor or opposed to
10 the drainage improvement, this hearing is now
11 closed. The evidence and testimony received
12 today, both here and at the viewing and by
13 written, including e-mail applications of
14 remonstrance will constitute the record, upon
15 which the Board of Commissioners will render
16 their decision.

17 I will now entertain a motion to
18 stand in recess to deliberate the findings of
19 the issues specified in the Revised Code and
20 reconvene this hearing at the regular meeting of
21 the Board of County Commissioners to be held by
22 teleconference on September 30, 2020 at 1:30
23 p.m. to render its decision by order on its
24 journal.

25 The access phone number to the

1 teleconference of the meeting of commissioners
2 can be found on the commissioners' website or
3 here it is as follows: (712) 770-5389. Access
4 code is 692732#.

5 **MR. SMITH:** So moved.

6 **MS. CREIGHTON:** Second

7 **MR. REGULA:** It has been moved
8 and seconded. All those in favor?

9 (Thereupon, all commissioners
10 responded, aye.)

11 **MR. REGULA:** Motion carries.

12 Now that the first hearing is complete, what
13 options does the Board have? Based on the
14 engineer's report and all the testimony and
15 evidence presented tonight and at the view, the
16 Board will decide whether the overall benefits
17 of the project outweighs the costs of the
18 project, or vice versa.

19 And then deny the petition and the
20 process ends, subject to appeal, or vote to
21 preliminarily approve the improvement and move
22 the process to the second phase, including to
23 set a date for a final hearing.

24 If the board were to decide in favor
25 of the project, after this first hearing, there

1 will be a final hearing, where the engineer will
2 present a detailed cost estimate and a formal
3 project design with mor specific detail on the
4 cost, broken down by benefitted parcels.

5 This would all be presented at the
6 final hearing. The board will then make the
7 final decision as to whether or not to proceed
8 with the project. This final decision is
9 subject to appeal.

10 Once again, I want to thank everybody
11 for coming. You are probably part of history
12 because I think in talking to David Ridenstein
13 and Debbie from the Prosecutor's Office, we
14 think this is the first petition that has been
15 processed, I guess I would say, by this Board of
16 County Commissioners and as Gary said, we might
17 have more of these to come, who knows.

18 Thanks for coming out. I want to
19 thank Jackson Schools for letting us here today.
20 Thank you.

21 (Thereupon, the proceedings were
22 concluded at 8:17 o'clock p.m.)

23 - - -

24

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