

Minutes of the Special Meeting
Racine County Board of Drainage Commissioners
April 23, 2019 – 7:00 P.M.
Village of Rochester, Rochester, WI

Item 1. Chairman Alvin Wilks called the meeting to order at 7:00 p.m.

Item 2. Roll Call: Members Present: Commissioners Alvin Wilks, Alan Jaspersen, Greg Foat, Russ Weis, John Vyvyan.

Others Present: John W. Knuteson Attorney for Board, Kim Williams, Recorder, Mark Madsen, Engineer; Al Jeske, Engineering Technician

Item 3. Approval of Agenda. Al Wilks advised that Items 5, 6, and 7 will be considered after Item 9. Alan Jaspersen made a Motion to approve the agenda with the stipulation that items 5, 6, and 7 be considered later in the meeting, seconded by Russ Weis, and the motion passed unanimously.

Item 4. Approval of Meeting Minutes.

- February 26, 2019 – Farm #4 Informational Meeting: Greg Foat made a motion to approve the February 26, 2019 Farm #4 Informational Meeting minutes, seconded by Alan Jaspersen, and the motion passed unanimously.
- February 26, 2019 – Farm #4 Public Hearing: Greg Foat made a motion to approve the February 26, 2019 Farm #4 Public Hearing Meeting minutes, seconded by John Vyvyan, and the motion passed unanimously.
- March 27, 2019 – Quarterly Meeting Minutes: Alan Jaspersen made a motion to approve the March 27, 2019 Quarterly Meeting minutes, seconded by Russ Weis, and the motion passed unanimously.

Item 5. Discussion on Steps to be taken to finalize the Eagle Creek Annexation. Discussion and Approval to proceed with District Mapping and Specifications. John Knuteson said that the next step is to assemble a packet of all the documents that DATCP requires, including all the objections and responses; we will be sending a letter to each of the people that have objected and set forth what the Engineer recommended and Board decided. DATCP is required to respond in 90 days. The next step would be making sure that the mapping and specifications are up to date, and if so, then we would proceed. If the annexation is approved by DATCP then we would proceed with the assessment and the benefit analysis that the Engineers would provide. If a property is a “swamp”, it may be in the district but will have no benefits and therefore no assessment.

Item 6. Discussion and Possible Approval of Lateral No. 1 Bank Repair Project: Received 3 quotes. Repairing 3 bank washouts and sluff areas. Banks are steep in this area. Line washouts with stone. Open Ditch Lateral #1 – for the bank washouts and sluffing repairs and lateral spot cleaning work. John Vyvyan made a motion to hire Countyline Contractors to make

repairs to the banks on lateral 1, seconded by Alan Jaspersen and the motion passed unanimously.

Item 7. Status of District Wide Bank and Washout Repairs. Tabled to June

Item 8. Objections (received in writing prior to meeting) Mark Madsen and John Knuteson will discuss the objections, letters will be sent to all landowners with results.

- Hansen - 2-17-2019 & 3-22-2019 Both properties are within the proposed annexation drainage basin. Based on the Engineer's recommendation, the objection was denied.
- Vanek - 2-21-2019 – Property is within the proposed annexation drainage basin. Based on the Engineer's recommendation, the objection was denied. Vanek stated that she talked to Wilks and Vyvyan after the March 27th meeting, showed them on the map where her objections were. Wilks and Vyvyan said that they talked to Mark Madsen about going out and walking in the area where Lateral B was supposed to be. Mr. Vyvyan did say, they abandoned that whole section of Lateral B, however Lateral B is on the Racine County map it shows Lateral B being there and part of RCBDC facility but its abandoned and not working. It is further down on the Bratz property south of the Manor and south of the area where Vanek lives. They dug up and redid it but it is no where near her property. The topographical map shows that the area where they restarted the lateral in is in a valley and on either side of it there is higher ground so there is no way that the properties that they dug and put the lateral on is going to be affected by any water coming off Vanek's property. Hansen said that they were told that Mark Madsen was going to be looking at the topographies and actually was told that there was nothing that RCBDC was going to do about Lateral B because it's on DNR property, and they wouldn't put a in lateral in because the DNR wouldn't let them. Vanek said the topography shows that water doesn't run up hill, everything is staying right there within the watershed. Mark Madsen said that the watershed eventually drains to one of RCBDC facilities and eventually to Eagle Creek.

Vanek said that she disagrees because the way the topographic map is, there is no way that water coming from her property in the Manor is going to end up at their lateral that was repaired and redone later because just south of her property there is water that has been sitting since before the last meeting. The water is still there today. She has water in front of her house that sits there. She said that they don't have good drainage and never had.

Madsen said that his basic premise is if you are located in the watershed, eventually that water is going to get to one of the facilities. Whether it gets to that tile, and I understand is probably not functioning, whether the district can

or can not repair it is another question. Eventually the water is going to go somewhere whether it makes it into Eagle Lake or wherever it goes. It will not be my recommendation to exempt a property in the middle of the watershed from the watershed. That is how I do my work for drainage.

If you feel your land is so impacted, maybe it should be considered swamp land. You should talk to the assessor and have it designated so and that portion of your land would not be assessed.

Vanek said it is not on her property; it is directly behind her property which is designated DNR Conservation Property. At the last meeting you asked us to wait until you were finished with the meeting and to bring the maps up and discuss with you. A lot of you said that there is no way that they can do anything with it and go on to the DNR Conservation Property to rectify it, so to us it doesn't benefit us.

Madsen said that is still doesn't change his opinion. We can talk about this for hours and I'm not going to change your opinion and you won't change mine. I respect that but what the remedies are he wasn't sure. Maybe the homeowners or the township should petition the DNR to allow the tile to be fixed so there can be better drainage. DNR is not in the business of proper drainage because they like wetlands, but it is a district tile and we ran into this with the Norway/Dover District. DNR would not allow us to do some work on their property but we still did the work on the canal. It is a different situation because it wasn't a tile, but there are things that can be done. What else can be done, I don't know. We only have jurisdiction to do projects or do work on district facilities, whether they are tiles or ditches.

Alan Jaspersen asked Mark Madsen there is a district tile there that could be repaired. Madsen responded that there was. Said that he wasn't going to dispute that for those who live in the area. He said he wasn't directed to go there and look at it personally.

Vanek said that the board did ask Madsen to look at the property at the last meeting. Vanek said Madsen said that we could go out and walk the property. Please check your minutes of the March 27th meeting. Vanek said that if you look at the topographical maps for most of the Manor, everything is set to drain to the back southwest corner. All of the ditches that were done in the 70's don't always work. But they were done so that everything can drain towards the southwest corner.

- Leunig - 2-23-2019 – Property is within the proposed annexation drainage basin. Based on the Engineer's recommendation, the objection was denied.

- Adamski - 2-13-2019 – Parcel 006-03-20-21-230-000 is mostly wetlands and Parcel 006-03-20-21-231-000 is all wetlands. Both properties are within the proposed annexation drainage basin. Based on the Engineer's recommendation, Parcel 006-03-20-21-231-000 objection has been accepted and imposed an assessment of \$0.00. Parcel 006-03-20-21-230-000 objection has been denied.
- Kordus - 3-24-2019 – One separate residential property and two adjoining business properties located near Spring Street and STH 11. Properties are within the proposed annexation drainage basin. Parcel #006-03-20-25-008-000 (Residence) has been tiled by owner to drain to the east and out of the drainage basin and that the proposed drainage basin boundary should be modified. Onsite field inspection has determined that both Parcels 006-03-20-25-009-000 and 006-03-20-36-013-001 do drain into the proposed drainage basin. Based on the Engineer's recommendation is to accept the request to remove part of Parcel 006-03-20-25-008-000 from the annexation and to modify the proposed district boundary per the onsite field inspection, and deny the request to remove parcels 006-03-20-25-009-000 and 006-03-20-36-013-001.
- Dubiel - 2-12-2019 – Property is within the proposed annexation drainage basin and abuts the existing Hoosier Creek District Boundary. Owner claims the entire parcel drains to Eagle Lake. This appears to be correct. Possible adjustment to the Hoosier Creek District boundary in the future. Property owner receives minimum charge from Hoosier Creek District currently. The Engineer's recommendation is to deny the request for this parcel.
- Haukedahl - 3-16-2019 – Property is within the proposed annexation drainage basin. Runoff flows to Northwest to swamp area as claimed by the owner. The swamp area drains to the southwest around the Dover Downs Horse Track via swales and drain tile. The Engineer's recommendation the objection is denied.
- Jeff Johnson: 28016 Washington Ave: Said that he lives in the area said that he was not notified about the possible annexation. John Knuteson answered and said that under the statute that RCBDC had to file a legal notice published 3 times in the paper, which was done, and using the addresses that Racine County had for each property owner, we mailed 1800+ letters to every property owner in the district and each Municipality also received a legal notice. That area drains in Eagle Creek.
- Smith - 3-25-2019 – Two separate adjoining properties are within the proposed annexation drainage basin. The Engineer's recommendation the objection is denied.

- Rowntree - 2-28-2019 – Both properties are not within the proposed annexation drainage basin. (Currently in the Norway Dover District). The Engineer's recommendation, the objection is accepted and both parcels will be removed from the proposed annexation. These 2 parcels are not within the district.
- Traxinger - 2-27-219 - Property is within the proposed annexation drainage basin. The Engineer's recommendation the objection is denied.
- Ament - 3-1-2019 – Steve Ament: Based on the Engineer's recommendation at our special meeting on April 23, 2019, your objection was accepted for the following reasons: both properties were shown as partially (0.33 and 31.33 acres) within the proposed annexation drainage basin. Onsite field inspection has determined that Parcel #006-03-20-34-023-000 is not within the drainage basin. The proposed drainage basin boundary on Parcel #006-03-20-34-023-001 should be modified. Recommend accepting the request to remove Parcel #006-03-20-34-023-000 from the proposed annexation and to modify the proposed District boundary on Parcel #006-03-20-34-023-001 per the onsite field inspection.
- Bart Ament: Based on the Engineer's recommendation at our special meeting on April 23, 2019, your objection was partial accepted and partial denied for the following reasons: Parcel #006-03-20-35-005-000 is partially (2.50 acres) within the proposed annexation drainage basin. Onsite field inspection has determined that Parcel #006-03-20-35-005-000 has been tiled to drain to the Southeast and out of the drainage basin and that the proposed drainage basin boundary will be modified. The Engineer recommended accepting the request to remove Parcel #006-03-20-35-005-000 from the annexation. Parcel #006-03-20-35-006-000 is not within the proposed annexation drainage basin. The Engineer recommended modifying the proposed District boundary on Parcel #006-03-20-35-006-000 per the onsite field inspection. Parcel #006-03-20-13-023-000 is partially (2.40 acres) within the proposed annexation drainage basin. Recommend denying the request for Parcel #006-03-20-13-023-000.
- Hager - 3-21-2019 – Parcel #006-03-20-05-010-000 is within the proposed annexation drainage basin. Parcel #006-03-20-08-008-000 is partially within the proposed annexation drainage basin. The Engineer's recommendation to deny the objection for both parcels.
- Burgan-Foster - 3-25-2019 – Parcel #006-03-20-26-001-010 and #006-03-20-26-001-020 are within the proposed annexation drainage basin. It is the Engineer's recommendation to deny the objection for both parcels.

- Eagle Lake Manor - 3-25-2019 – All Eagle Manor properties are within the proposed annexation drainage basin. It is the Engineer's recommendation is to deny the request.

John Knuteson advised said that the Board received two letters from Atty. Scholze from Wanasek, Scholze, Ludwig, Ekes & Gorn. The first letter was a public records request dated March 1, 2019 and the second was an objection based on legal and engineering arguments. Regarding Atty Scholze's legal arguments on behalf of his clients who oppose the annexation, the petition by landowners seeking annexation was submitted December 4, 2014. The Board was unable to act on the petition until the Engineer completed his mapping and determination of additional parcels adjacent to Farm District #4 / Eagle Creek which were also in the Watershed. The RCBDC on September 6, 2018 made a motion to Annex "the Watershed North and East of Hwy J excluding the Village of Rochester" and the president directed the Engineer to prepare for the annexation. On December 6, 2018, the September 6, 2018 minutes were approved, and the Engineer prepared the report with the existing Farm #4/Eagle Creek map and proposed district boundaries. At that meeting the President directed that a hearing date be scheduled. In addition to legal publication, each landowner was mailed a letter dated January 31, 2019 and a legal notice of Informational Meeting and Public Hearing on proposed annexation of land dated February 5, 2019 pursuant to 88.05 (3) (a) & (b). While this was not titled an "Order to Show Cause", it was legally sufficient notice of the February 26, 2019 Public Hearing, and gave property owners notice of their right to object to annexation.

- Wamboldt - 3-23-2019 – Property is within the proposed annexation drainage basin. The Engineer's recommendation to deny the request.

Diana Wamboldt spoke, said that she is confused as to the benefit of her property because she is at a low spot in the Manor, in the flood plain. She said we have had our property surrounded by water last year and it continues to be flooded. Unless specifically that drainage is going to make that water go away, then I don't understand how she benefits. She has provided pictures showing the different points of the year, including a picture coming off winter. She was not talking about the front portion of her property; she is talking about the back of my property that abuts to the DNR wetland and we have lived at our property for 8 years and it has not ever been dry.

Mark Madsen responded that the benefit is that the district is maintaining their facilities. If they are maintaining their facilities notwithstanding the tiles we talked about, but the main ditches, canals and tiles that are still functioning, should provide that her situation would not become any worse.

Mark Madsen further stated that anybody that is in the Watershed is benefitted by the District facilities which drain the watershed. The District can't control anything that is not the District's facilities, whether it is a local road ditch, a swale between your neighbors, whether somebody fills in a swale with dirt, or the County or Town doesn't maintain drainage ditches, or the ditches were not properly installed or maintained. If it is not a district facility the district can not directly impact your property.

Diana Wamboldt further said that if she is part of the wetland and you can't assess my property why am I paying for it? She stated her property is on wetland and the Board can come look at her property.

- Furey, - Letter and discussion from past Town Chairman and Eagle Lake Management Chairman Ed Furey objecting to the annexation. He also objected to addition Phosphates from farm land and additional fees. All lake management properties are within the proposed annexation drainage basin. It was the Engineer's recommendation to deny the request.
- Yost – Property is within the proposed annexation drainage basin. The Engineer's recommendation to deny the request.
- Zubarik – Property is within the proposed annexation drainage basin. Runoff flows to Northwest to swamp area as claimed by the owner. The swamp area will drain to the southwest around the Dover Downs Horse Track via swales and drain tile. It is the Engineer's recommendation to deny the request.

Al Wilks said that all objections were addressed and asked for a motion to approve the engineers recommendation and the Annexation, subject to DATCP's approval.

Item 9. Order Approving Annexation. Alan Jasperson made a motion to approve the annexation subject to the changes that have been presented by our Engineer, Mark Madsen and that we forward the annexation to DATCP for their approval, seconded by John Vyvyan, and the motion passed unanimously.

Adjournment. Alan Jasperson made a motion to adjourn, which was seconded by Greg Foat and passed unanimously at 8:14 p.m.

RACINE COUNTY BOARD OF DRAINAGE COMMISSIONERS

APPROVED: 6-20-19

Al R. Wilks C
Chairman

Al Jaspersen
Secretary