

DANE COUNTY DRAINAGE BOARD HEARING
October 22, 2019

Location: DeForest Village Hall, 120 S. Stevenson St., DeForest, WI 53532

Drainage Board Members Present: Scott Ringelstetter, Leonard Massie, Paul Maly

Others Present: John C. Mitby, (Board Attorney) Elizabeth Spencer (Board Attorney), Allen Reuter (Village Attorney), Kelli Bialkowski (DeForest Director of Public Services)

District Members present:

District No.25: Chris Evans, Ken Herschleb

Hearing called to order at 6:32 PM by Chairman Scott Ringelstetter.

The Village of DeForest recorded audio of this hearing.

Brief Summary of Petition

- J. Mitby opens the hearing by explaining the reason for the hearing and the Village of DeForest's petition to transfer jurisdiction of District 25 land located in the limits of the Village to the Village. Attached as Exhibit 1 to this record is a copy of the petition.

Comments and Questions by Interested Persons

- C. Evans requests to review a map of the municipal and district boundaries to understand what the Village wishes to annex.
- S. Ringelstetter notes that Norm Danielson is not present at the hearing but informed S. Ringelstetter that he would like things to remain as is.
- K. Herschleb requests an explanation regarding the current arrangement that the Village has with the Board. S. Ringelstetter states that current arrangement involved properties located outside the Village to be individually assessed while properties located within the Village do not receive an assessment; the Village pays the assessment out of its Stormwater and Utilities fund. A. Reuter notes that the fund is based on the amount of impervious surface water. He notes that there have been questions over those who don't pay into the fund and should they be assessed in some way.
- *The Village projected a GIS map showing the Village boundaries and District boundaries to assist with the discussion.*
 - S. Ringelstetter goes through the boundaries of the District, the Village boundaries, lateral 3, and the main drain. L. Massie provides the history of splitting the Catfish District into Districts 22 and 25.

- J. Mitby notes that the District ends and begins outside of the Village. The Village is located in the middle of the District. It may be complicated to separate out costs.
- K. Herschleb asks why does the Village want to take over and why not alternatively make an arrangement with the Board?
 - A. Reuter explains that Villagers are often confused by the Board being the responsible entity. The Village has a Stormwater Utility Fund and crew and is in the position to maintain the ditches on their own. Currently the Stormwater fund is at \$938,000.
 - J. Mitby points out that the District has the advantages of using Ch.88 which allows for the bypassing of permits.
 - A. Reuter acknowledges that the Board has more statutory authority.
 - S. Ringelstetter notes the Board is exempt from most permits needed and there are some different rules regarding wetlands.
 - A. Reuter notes that the Village has never had an issue getting permission to go on land.
- P. Maly raises recent issue of obstruction in the ditch, noting that the residents called the Board first and not the Village.
 - A. Reuter states that the resident did not call the Village so the Village did not act. The obstruction itself cannot be considered evidence of negligence by the Village. Not a fair characterization that the Village is not taking care of issues.
 - P. Maly notes that its yearly inspections allows the Boards to notice these issues.
 - K. Bialkowski notes that the Village also performs inspections.
 - K. Herschleb notes that he does not reside in the Village but if he calls the Village notifying them of an issue within the Village they will not listen to him. Additionally, he expresses concern over the industrial areas with retention ponds, how will the district be able to assess money to help the areas outside the village?
 - A. Reuter notes that there is a Stormwater Plan in place. The retention ponds work to make the release of water the same as before or better than predevelopment.
 - J. Mitby notes that the ponds have not been able to handle the water over the past year.
 - A. Reuter notes that the difficulty of the ponds to handle the water over the past years does not mean they designed incorrectly but that these have been historic storms and a climate change issue.
- C. Evans expresses that he is fine with the district as it is currently. He does not desire to go against the flow and recognizes that the Village does do good work in District 22.
 - L. Massie requests clarification if his land is in the district. S. Ringelstetter notes that some is in the district and some is in the Village.

- K. Herschleb sees no positives with the Village taking over jurisdiction. He is happy with the way things are and sees no advantages to changing.

Intergovernmental Agreement.

- J. Mitby proposes an intergovernmental agreement as an alternative to transfer of jurisdiction. The agreement could be for 3 years and would give the Village some of the Board's authorities and rights to enter corridors.
 - L. Massie agrees that this may resolve Board concerns about Village previously blowing the Board off. Assessment of work outside the village would be just for those outside the Village.
- K. Herschleb raises concerns about changes in personnel in the Village that could affect the state of the drain.

Closed Session

- P. Maly moves to have the Board convene in closed session. L. Massie Seconds. MC 3-0. Meeting moves to closed session at 7:46 pm.
- L. Massie moves to deny the Petition. P. Maly seconds. MC 3-0.
- L. Massie moves to investigate the possibility of an intergovernmental agreement with the Village regarding management of the district within the Village. P. Maly seconds. MC. 3-0.

Decision

- The Board reconvenes in open session at 8:06 pm.
- L. Massie states that the Board moved 3-0 to deny the petition. The petition is denied on the basis that the Board would lose control of lateral; the District would be effectively divided into 3 chunks if the petition was approved making it difficult to ensure that the drainage benefits assigned to the lands can be maintained; that interaction between the Board and Village this year has been good but interactions over the past did not go as well; the Board is uncomfortable not knowing the mission of the Village; and, the Board takes issue with the third statement in the resolution included in the Village's petition stating that the land no long benefits from the work or improvements by the District.
- L. Massie states that he Board is proposing that the Board and Village enter into a 3 year intergovernmental agreement. This agreement would shift maintenance and management of drainage facilitates located within the Village to the Village. This agreement would allow the Board to see how things progress under Village management. The District would not make assessment for cost for lands in the Village and the same storm water management can go on as in the past.
- J. Mitby raises the issue of administrative costs for the Board and that the details of an intergovernmental agreement would need to be worked out.

- A. Reuter has no reaction at this time. He would need to present the intergovernmental agreement proposal to the Village Board and cannot state anything regarding their interest.

L. Massie moves to adjourn meeting. P. Maly seconds. MC 3-0. Meeting adjourned at 8:30 pm