

## **SPECIAL TOWN BOARD MEETING September 16, 2021 – 6:00 P.M. VIA VIRTUAL ZOOM MEETING**

**PRESENT:** Chair David Pfeiffer, Supervisor Jay Damkoehler, Supervisor Eric Olson, Supervisor Doug Larsson, and Clerk/Treasurer Maria Hougan

**OTHERS PRESENT:** Town Engineer Eric Vieth, Town Attorney Allen Reuter, Residents of the Greenbriar Pond area to include: Teri Carr, Chuck Nemeckey, Matt Hanson, Eric and Monica Christensen, Greg Gregorson, Hanson's, Jay Wolter, Frank Ott, Craig Ott, and Alex Mesdjian.

**ABSENT:** Supervisor Janiece Bolender

### **CALL TO ORDER**

Chair Pfeiffer called the meeting to order at 6:00 p.m.

### **BUSINESS**

#### **Presentation, discussion and possible action regarding plan and assessment of costs for maintenance of the privately owned stormwater facility for the Greenbriar Estates subdivision located near the intersection of Sheryl Lane and Shadyside Drive.**

Town Board Chair Pfeiffer noted that the Board is resuming the meeting from September 2<sup>nd</sup>. He addressed some of the questions from the last meeting.

There was a question regarding the sediment accumulation, and if it needs to be removed prior to Main of pond sediment accumulation, or if its operational as it is now? Town Engineer Eric Vieth replied that the area sediment accumulation is at the outfall pipe. Currently some sediment building at the outfall, about 18" and tapers off. The pond is functioning fine. Wet ponds can vary for needs of sediment removal. This pond does not see a lot of sediment loading. Recommend sediment removal at the outfall area.

Several residents had questions.

Jay Wolter asked about and annual reports and records on maintenance regarding what type of activity has been done, from the start of the maintenance agreement to now.

Town Chair Pfeifer was not aware of any sediment measurements, but staff would periodically view the pond. The pond is operating functionally with sediment.

Superintendent Mesdjian stated Public Woks have done visuals on erosion, but have not been on foot to inspect the pond. The outlet pipe on Shadyside was lined. He started with the town in September 2018, and has met Wolters a few times.

Craig Ott, asked if it's the pond and functionality or a question of rodents?

Chuck Nemeckay, stated he was not party to original agreement, they purchased their home in 2018. He asked about the maintenance that was not done, it seems that normal maintenance that should be done should not to come to \$20,000. What wasn't done that should have been?

Terri Carr, stated she has the same concerns as Mr. Nemeckay. She purchased their home 2015. This information is all new to her, they were never informed of this at the time of purchase. She is trying to understand how assessment was made to Greenbriar Estates, and that there are other properties that flow to the pond. Wants to see Engineer's diagram. At the last meeting lot of items were discussed; is all of that still on the table and what is the cost?

Chair Pfeiffer explained the assessment of the properties involved is due to subdivision requirements from Dane County. The pond is there due to subdivision requirements. Dane County requires stormwater in subdivisions to be maintained. This is part of the maintenance agreement.

Attorney Reuter stated the County and State requires subdivision developments to institute plans and facilities. Basin was required, and there is supposed to be a maintenance agreement, where the owner agrees to complete certain duties. The County holds owners responsible whether or not agreement in place. Cost falls to residents whether or not an agreement in place. This is stated in the state statutes.

Chair Pfeiffer explained stormwater process & reason for pond. The town is proposing the repair discussed, this would fix the problem one time. The proposed plan is just under \$25,000.

Eric Christensen has questions on the assessment as outlaid now, is that set-in stone for the residents of Sheryl Ln?

Attorney Reuter stated there are rules for assessments on infrastructure no set rule on how a project is allocated, and this determination is made by Town Board.

Chair Pfeiffer stated the Town Board has not voted on this yet. There will be a future meeting where the Board will vote.

Town Engineer Vieth stated the assessment is based on impervious formula. They looked at drainage to pond. It's based on the total area of lot size. They look at the impervious area of the properties which drain to Sheryl Ln and down to the pond.

Eric Christensen stated the last few years after the road was upgraded, there was ditching done and culvert replaced to expedite flow of water. It's short sided to assume Sheryl Ln. is only property that goes into pond. There are multiple properties feeding to pond. He invites Board to look at other properties to be included in assessment.

Chair Pfeiffer stated the pond was required for this specific subdivision to be built.

Attorney Reuter stated there is a certain volume standpoint where the developer is required to maintain 90%, the increased runoff can't be more than 10% increase.

Mr. Hanson had a couple of questions, to Eric's point, at one time why does town exasperate the issue by putting in a culvert, and the Town executed agreement 2013-2014 advised by own legal counsel about liability, the documentation never followed thru by town, now there are people who purchased properties were not aware of this at time of purchase.

Attorney Reuter stated the agreement is not source of town's authority. The Town has power to assess. Agreement reached was a document for physical maintenance but not at taxpayer cost, but at the property owners' cost.

John Carr questioned why was this not made known to people who purchased their properties?

Attorney Reuter stated residents' properties could be assessed for many things.

John Carr asked if this was the developer's responsibility? The developer doesn't know anything about this.

Attorney Reuter stated is a county ordinance

John Carr asked if the culvert placed two years ago along Shadyside if this was an enhancement to drainage to the pond, by adding a culvert that distributes more water to pond – why? What is the exasperation of flow and sediment from that culvert? He also stated he is interested in finding out the flow of the culvert.

Town Chair Pfeiffer stated the culvert in question may be a culvert installed under a driveway.

Town Engineer Vieth stated the culvert goes into storm manhole and directed out through lake. Structure on east side of driveway.

There was discussion regarding the outfalls, installation of the culvert, and if this was a driveway culvert.

Chuck Nemeckay reiterated what Matt Hanson brought up regarding the assessment concerns.

Eric Christensen wanted to clarify the culvert in question is small driveway feeds to water treatment at northeast corner of Bryant Foundation. Culvert increased and ditched to increase water flow. Lot of water going to Sheryl Lane from that work that was done.

Chair Pfeiffer stated that water from the culvert is sent out to the Lake.

Eric Christensen- we are getting derailed by Bryant Culvert. In his yard the ditch was graded and culvert added to increase water flow to pond. 1880 Sheryl Ln. Lot of water coming from a lot of places – will they be considered for assessment moving forward.

Chair Pfeiffer stated the water would have gone to the lake except for subdivision being put in. We don't have an assessment proposal voted on by the Town Board at this time. The agreement did not have assessment plan included in it. Town Board will need to vote and approve a plan.

Chuck Nemeckay – Question going back to previous comment, in 1995 when plat was approved, the corner lot was supposed to be parkland. Then the plat had changed, and that lot was no longer parkland. Why was agreement necessary if WI statutes address this?

Attorney Reuter this is a special charge for certain property owners but not others. The town has authority to assess. The County was enforcing Stormwater Management as basin was not being maintained.

Chair Pfeiffer asked the Town Engineer where do we stand as far as the contractor doing the work? Town Engineer Veith stated he hasn't spoken to contractor in 2 mos. They had previously said they could do work this fall. He will need to check with them to see.

Matt Hanson asked for a definition of impervious and pervious, to which Town Engineer Veith provided a definition. Impervious to include driveways, concrete, rooftops, where water runs off is considered impervious. Gravel driveways could also be included areas that prevents rain/melting snow from soaking in. Pervious are areas were water soaks in.

Further discussion followed regarding the proposed repair plans.

Town Engineer Vieth said that the pipe will be repaired – slip line with pup pipe. Burrowing/muskrat damage is not linked to sediment accumulation. Removing sediment 5-10 years ago would not have prevented muskrats. They will drain the pond and fill in the banks. They want to do a more permanent repair in one shot vs. multiple repairs. They could not have repaired the pond in 2018 when water levels were so high. That would not have solved the muskrat problem. Needed to find a long-term solution for muskrat problem.

Craig Ott stated this is an unusual situation of a pond on private property. Where does decision lie?

Attorney Allen Reuter stated that legally the determination is for Town Board to make.

John Carr asked about any conversations about muskrat and maintenance in the past? Is there a report or documentation regarding previous meetings from the past several years regarding talks about muskrats, etc. for the Greenbriar Pond?

Town Chair Pfeiffer stated that certainly there were agendas posted regarding this pond in the past. Original thought was pond to be repaired with riprap, but cost of that is very high. Engineer proposed a significantly lower cost.

Chuck Nemeckay asked about the bi annual inspections which were supposed to be done, at what point should it have been identified? What was the course of action, why didn't it happen?

Town Chair Pfeiffer explained the muskrats came back; they are trying to avoid making multiple repairs. The solution presented is to fix it one time.

Town Engineer Vieth stated it would not have been possible to do repairs in 2018 based on high water levels.

Attorney Reuter stated this is more of prevention. There's no way to prevent muskrats from coming into basin or the amount of rain. Now they are proposing a to prevent the muskrats coming in. This proposal is about prevention.

Town Chair Pfeiffer asked if anyone has questions, send them to the Town Clerk. This will be coming to a future Town Board meeting to approve a plan and assessment.

The meeting adjourned at 7:14 p.m.

Respectively Submitted,

Maria "Pili" Hougan  
Clerk/Treasurer

*Note: These minutes are not considered official until acted upon at a future meeting, and, therefore, are subject to revision.*