



**Executive
Meeting Supplement
December 28, 2018**

Supplemental Information Only:

10. Leeper Property 2302 5th Court – Update

Resident Letter /
Article Regarding “What Townships Need to Know About
Drainage Law”

Added Agenda Items:

21.A. North Oaks Golf Course Lift Station - Discussion

21.B. Bob Kermes Retirement Get-Together - Discussion

21.C. Special Attorney Client Closed Meeting

- a. Approval of Minutes
- b. 5685 Portland Avenue

**Executive
Meeting Supplement
December 28, 2018**

Supplemental Information Only:

Agenda Number: 10

Subject: Leeper Property 2302 5th Court - Update

Documentation: Resident Letter /
Article Regarding "What Townships Need to Know
About Drainage Law"

Action / Motion for Consideration:

Report at Meeting / Discuss

RECEIVED

DEC 24 2018

TOWN OF WHITE BEAR

Dana Raines and Kay Sargent
5344 Eagle Street
White Bear Township, MN 55110

December 19, 2018

Re: Stormwater Management Problems

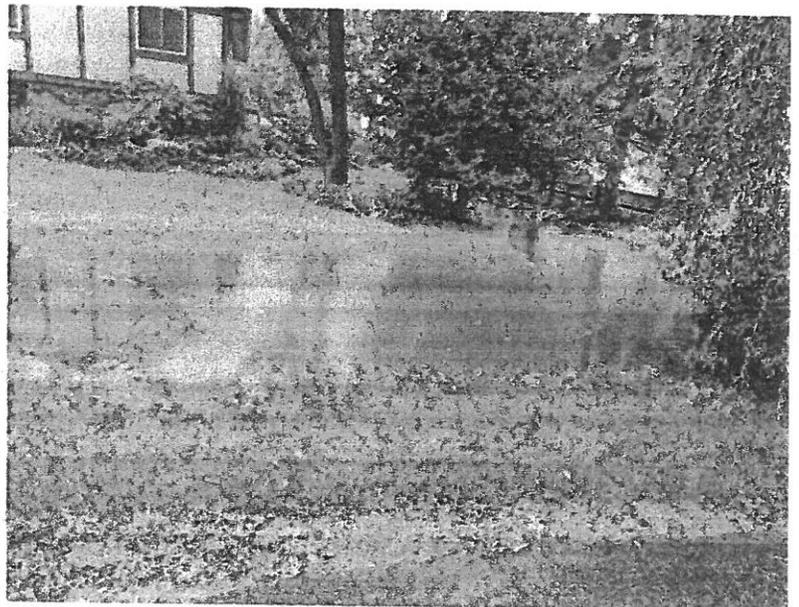
Dear White Bear Township Supervisors Prudhon, Ruzek and Chair Kernes,

The White Bear Township Board is committed to preserving surface water quality in the Township and enforcing their Stormwater Management Ordinance 87 and reducing stormwater runoff that pollutes our lakes and rivers. As stated in the Township's July, 2018 Local Surface Water Management Plan "Non-point source control from urban areas will be accomplished chiefly through the application of wet detention ponding techniques." We fully embrace this principals and have successfully engineered stormwater infiltration, preventing runoff into surface waters.

it was to our dismay when on Monday, December 17th, 2018 TKDA's James Studenski and crew, hired by the Township, showed up unannounced on our property with surveying equipment and shovels. Their stated purpose was to take elevations to assess the feasibility of discharging stormwater from the Robert and Jane Leeper's 2302 5th Court property directly onto our property.

During the 16 years that we have lived in White Bear Township we have worked hard to modify our property to maximize minimize stormwater runoff and maximize stormwater infiltration. For years our goal is to have no stormwater leave our property. Our neighborhood's soil type is drains quickly, usually within 12 to 24 hours, so our efforts have brought significant improvements.

We have hand dug rain gardens and numerous depressions in our lawn specifically to retain stormwater. Here is our property on September 20, 2018 when we had over 3 inches of rain in less than 90 minutes. We were glad to see the standing water as it was infiltrating into the soil, replenishing the water table and our precious aquifer. The stormwater quickly soaked into our fast draining soils and by the next morning was gone.





The Leepers have graded their property so that the lowest point in their yard is on our northern property line. In the past they dug a channel to direct water to our property and have pumped water onto our property.

This photo was taken during June, 2018 when they brought in additional soil and graded it so that stormwater would be further directed to our property.

We are against having the Township pay to have stormwater discharged from 2302 5th Court property onto our property. Due to the drainage efficiency of our soil types stormwater can easily be managed on site. Draining their stormwater through our property would not only jeopardize our home and foundation, but it would also result in stormwater flowing via our property, onto Township roadways, ditches and directly into Bald Eagle Lake. This would be contrary to the purposes of both the Township's stormwater and local surface water management goals.

We want to protect the surface waters of White Bear Township. We cannot do that alone. We cannot do that if our neighbors, Robert and Jane Leeper, discharge their stormwater onto our property. We ask the Township to not spend Township funds on diverting stormwater through our property onto Township roadways and into Bald Eagle Lake. We ask the Township Board to enforce the Stormwater Management Ordinance 87.

We thank you for your consideration and look forward to your prompt written reply.

Dana Raines and Kay Sargent

Dana Raines and Kay Sargent

used to conclude that the city's stormwater management actions constituted a nuisance is not immediately clear.

Over time, more disputes respecting water were brought to Minnesota's courts for resolution. These court decisions established precedents in drainage disputes and from these precedents, a set of rules or principles were developed that apply to water and property rights. The cases separate rights that applied to "natural watercourses" from rights that applied to the management of "surface water;" thus, we must first explain how courts characterize the two.

Natural Watercourses: "Natural watercourses" and drainways for "surface water" differ in their physical characteristics. In order to constitute a "natural watercourse," "the flow ordinarily must have some substantial permanency and continuity and must be a part of a well-defined stream or body of water." To decipher the difference, the courts look at the physical characteristics of the flow in terms of volume, topography, or continuity.

Surface Waters: "Surface waters," on the other hand, consist of waters from "rains, springs, or melting snow which lie or flow on the surface of the earth, but do not form a part of a well-defined body of water or natural watercourse." These waters have a tendency to follow the natural depressions and contour of the land. While they might flow in a worn, small natural channel, they do not flow in the well-defined channels that rise to the description of natural watercourses above.

The distinction is relevant because the common law rule for resolving disputes over obstructing, enhancing, or diverting natural watercourses differs slightly from the rule for surface waters. When it comes to resolving disputes over natural watercourses, some courts cite the Latin phrase *aqua currit et currere debet*, which means, "water flows naturally and should be permitted thus to flow." Obstructing a natural watercourse, for example, violates the property rights of riparian landowners—owners of property adjacent to the natural watercourse. Surface water, on the other hand, does not impose riparian rights on to an abutting property owner; therefore, the rule addressing the manipulation of surface water requires a much more in-depth analysis into the facts of that particular situation.

Initially, many state courts, including Minnesota, treated surface waters as a "common enemy" which each owner may get rid of as best as he or she can. Over time, that standard evolved to what is commonly referred to as "the rule of reasonable use."

The Rule of Reasonable Use: Applying the "reasonable use rule" requires balancing competing property rights. In simple terms, it means that a landowner may exercise rights on her land as she pleases, provided she does not interfere with the rights of others. The courts describe the rule as follows:

[I]n effecting a reasonable use of his land for a legitimate purpose a landowner, acting in good faith, may drain his land of surface waters and cast them as a burden upon the land of another, although such drainage carries with it some waters which would otherwise have never gone that way but would have remained on the land until they were absorbed by the soil or evaporated in the air, if:

- (a) There is a reasonable necessity for such drainage;
- (b) If reasonable care be taken to avoid unnecessary injury to the land receiving the burden;
- (c) If the utility or benefit accruing to the land drained reasonably outweighs the gravity of the harm to the land receiving the burden; and
- (d) If, where practicable, it is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonably carrying capacity, or if, in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is adopted.

If damage is caused to others from the obstruction, enhancement, or diversion of surface waters, the person making the improvements will only be liable for such damages if the court finds that in planning and executing the diversion, the acting party made "unreasonable" use of its property. Drainage that is found by the courts under these factors to be "reasonable," will not carry with it liability for the damages downstream.

Surface water runoff is a naturally occurring and generally unavoidable event: water flows downhill. Owners of higher elevated property, whether that be a private farm field or a roadway, should consider how their grading and discharge of surface waters may potentially impact the lower property. Lower property landowners, including road authorities managing a public roadway, must recognize the natural rules of reasonable drainage while considering the impact of restricting runoff from a higher property. A reasonable and cooperative approach to resolving drainage disputes may require some compromise, but will save each party time and money. When disputes cannot be resolved between affected properties, then the injured party must seek resolution through initiation of legal action and the court system.

**Executive
Meeting Supplement
December 28, 2018**

Added Agenda Items:

Agenda Number: 21.A

Subject: North Oaks Golf Course Lift Station - Discussion

Documentation: Email

Action / Motion for Consideration:

Report at Meeting / Discuss

Patti Walstad

From: Pat Christopherson
Sent: Friday, December 28, 2018 8:04 AM
To: Patti Walstad
Subject: FW: Thank You

Lets add this too....

From: Phil Anderson <Phil@northoaksgolfclub.com>
Sent: Wednesday, December 26, 2018 2:56 PM
To: Pat Christopherson <Pat.Christopherson@whitebeartownship.org>
Subject: Thank You

Pat,

Thanks for taking my call last week, here is a couple of the questions we have as we are looking to connect a sewer line with Vadnais Heights.

We are trying to better understand what we need to do to get sanitary sewer service, how White Bear Township will maintain the system and how we will be properly notified of any malfunctions.

Does WB Township have a concern regarding Ownership of the lift station, sanitary sewer gravity system, and the lift station force main (City of North Oaks or the Golf Club)?

We are working to discharge the force main to the Vadnais Heights sanitary sewer system. Vadnais Heights wishes to contract with North Oaks in a Joint Powers Agreement with Vadnais Heights. Would this only work if North Oaks owns the lift station? Or could this work if the Golf Club owned the lift station? How do you see this working from a long term perspective?

How does North Oaks currently reimburse WB Township to service lift stations etc.?

Would WB Township bill North Oaks and North Oaks would pass it on to us? Or could WB Township invoice the Golf Club directly?

We understand that the SCADA standard for North Oaks is to communicate with a radio from the lift station. Does the radio need to communicate with North Oaks, or just White Bear Township?

How do existing lift stations in North Oaks communicate with WB Township? Do they repeat off of a facility in North Oaks? Does North Oaks receive the information or does it go solely to WB Township?

The Golf Club experiences loss of power with some frequency. What is our backup if the lift station communication is a computer at the clubhouse, do we need to have a battery back up for it to maintain communications?

If WB Township is okay working with and communicating with us privately/directly that would that work?

What are the emergency protocols should an alarm or power failure occur at the lift station?

Does the Township utilize a specific generator for temporary pumping should a power failure occur? Any specific requirements or details to plug the generator into our lift station?

Thanks for your time on this. I look forward to connecting with you after your Friday meeting or just after the new year!

Phil Anderson

General Manager

North Oaks Golf Club

651.484.6311 Office

651.444.1225 Direct

651.398.8371 Cell

NorthOaksGolfClub.com



January 2019

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 New Year's Eve	2	3 Public Safety Comm Mtg	4	5
6	7 TB Mtg -Org. Mtg? 1)NYFS Agree	8 EDAB Mtg	9	10 Utility Comm	11	12
13	14	15	16	17 Park Board	18	19
20	21 MLK Day Holiday	22	23 EDA/TB Mtg/Org Mtg? 1) Comm Recomm	24 Planning Comm	25 Exec Mtg 1) DNR 2) Fire Escrow Acct Renew	26
27	28	29	30	31		

**Executive
Meeting Supplement
December 17, 2018**

Added Agenda Item:

Agenda Number: 21.C

Subject: Special Attorney Client Closed Meeting

- a. Approval of Minutes
- b. 5685 Portland Avenue

Documentation: Minutes & Correspondence Bound Separately

Action / Motion for Consideration:

Town Attorney Report at Meeting / Discuss

- a. Approve Special Attorney Client Closed Town Board Meeting Minutes of November 5, 2018 & November 19, 2018
- b. 5685 Portland Avenue Discussion