

**Walworth County Land Conservation
Committee Meeting And Public Hearing**

MINUTES

Monday, July 18, 2011 at 1:30 p.m.

Walworth County Board Room 114
Elkhorn, WI 53121

The meeting was called to order by LCC Chair Kilkenny at 1:34 p.m.

Roll call - Committee members present included: Supervisors Kilkenny, Hawkins, Grant, and Citizen Member Burwell. USDA/FSA Representative Sue Bellman was absent, excused. A quorum was declared.

County staff present – David Bretl, County Administrator; Michael Cotter, Director of Land Use & Resource Management (LURM); Louise Olson, Deputy Director, LURM; and Joeann Douglas, Recording Secretary.

Also in attendance –. Nancy Russell, Walworth County Board Chair; Attorney Paul A. Dirkse, Lake Beulah Management District; David Bitter, Lake Beulah Management District; Peter Tamayo; Wendy Solum, Maggie Zoellner

Approval of Agenda – **Supervisors Hawkins and Grant moved and seconded approval of the agenda. Motion carried 4-0**

Approval of Minutes– **Citizen Member Burwell and Supervisor Hawkins moved and seconded approval of the minutes as presented. Motion carried 4-0.**

Public Comment – None

Public Hearing Pursuant to Section 33.26 of the Wisconsin Statutes – Petition to Attach Property to the Lake Beulah Management District - Walworth County provided a large map indicating the area to be attached and Michael Cotter explained the public hearing procedures.

Those Speaking On Behalf of the Petition: Attorney Paul Dirkse, represented and spoke on behalf of the Lake Beulah Management District. Attorney. Dirkse said the Lake Management District was petitioning to add a dozen or so properties to their district because of their proximity, and direct, private access to the lake via a private alley way. The criteria used: is it a necessity, is it for the public welfare, and will the proposed property owners be benefited by being in the lake district. The answer to each of those questions is yes. The report and resolution that was submitted lays out some of the benefits to the property owners being attached. The activities the lake management district is now, or will be involved in, such as those dealing with water quality management, invasive species, and water quality, were examples. They benefit the general public, but there are specific benefits to those most likely to use the lake and have access through private means. Some of the activities are paid for by grant money and some are paid for through the assessments levied against those in the lake district. Property values are taken into consideration when the lake district levies the assessments. It was an oversight when the properties were omitted from the lake district when it was formed. All the properties in the lake management district have private septic systems.

Mr. Dave Bitter, District President also spoke on behalf of the Beulah Lake Management District. He said the sanitary district was formed approximately 1967-1968. A number of tests were done and it was found the septic systems were in good condition at that time. In 1995-1996 a state law was passed to change sanitary districts to lake districts, giving lake districts the authority to pass resolutions and ordinances. The same boundaries of the sanitary district became the lake district boundaries as recommended by SEWRPC. RSV Engineering was hired to determine which properties had some type of access to the lake. The properties being petitioned to be attached were found to be the only ones with direct access that were not yet included in the lake district. The fee structure is based on valuation of home and is a mill rate assessment.

Those Speaking Against the Petition: Peter Tamayo, N9375 East Shore Rd, one of the homeowners to be attached, said he did not have access via the alley way. There is a pier at the end of the alley and is used by some of the owners of the land in the petition but not all. The alley is 20 feet wide and the pier occupies the entire entrance of the alley. With the pier, and boats on either side, there is no room without walking on private property. Mr. Tamayo either goes to the public launch and pays \$7.00 or asks one of his neighbors with a pier. When he bought his house, he had the lake rights researched by an attorney and was told he did have lake rights. His property is part of the re-subdivision of Lot 10 of Lake Beulah Park. There is no subdivision association for the 15 lots in question that clearly states what the homeowners are entitled to regarding access. To the best of his knowledge, Mr. Tamayo said 5 homes of the Lake Beulah Park have access with the alley way and 2 do not. Chair Kilkenny said the County does not have legal jurisdiction over access rights. The homeowner has the right challenge the tax assessment.

Wendy Solum, N9356 Beulah Park Road, also a homeowner of land to be attached spoke against it. Her property was purchased at a time when the pier had an injunction against it and was in litigation for several years to keep Beulah Alley and the pier. It was ultimately determined they were riparian owners. Ms Solum said there is another easement or right of way further south of Beulah Alley.

Michael Cotter also read a letter in opposition from Robin and Joyce Schroeffer, N9398 Beulah Park Road. In summary, they have deeded access on paper only. They have lived there 26 years and have never used the lake for any recreational activities. They also know of at least one neighbor who has a private access in the subdivision that is not included in this expansion but uses the lake all summer long.

Rebuttal - Attorney Dirkse gave rebuttal. If there are similar lots that should be included, not including them is inadvertent. He said they could look at them individually. It appears all of the lot owners do enjoy some benefit, either through walking use or the use of the pier. As to the people who are being denied access by other neighbors, apparently there has been litigation on it in the past, and it should not be up to the lake district to sort it out. According to the 1914 deed, it appears all of the owners should have access. Attorney Dirkse said the lots should therefore participate freely in all the rights and the responsibilities. He said these lots should be added for the element of fairness. Regarding the neighbor who has a private access not included in the expansion, if they are not included in this notice, it would have to be a separate petition.

Supervisors Hawkins and Grant moved and seconded to close the hearing. Motion carried 4-0.

Petition to attach property to the Lake Beulah Management District – Michael Cotter gave direction as to how the committee could proceed. Brief discussion followed. **Supervisors Grant and Hawkins moved and seconded recommending approval of the petition.** Citizen Member Burwell said she hoped those not enjoying sufficient access were able to have it in the future, but the Lake Beulah Management District has proven the criteria. **Motion carried 4-0.**

State Budget Impact regarding Farmland Preservation Conversion Fee – Michael Cotter said the 2011 Assembly Bill 40, Section 9103 (2i) states: “Farmland Preservation Conversion Fees. If a political subdivision collected conversion fees under section 91.48 (1) (b), 2009 stats., for land rezoned in 2011, the political subdivision shall retain the fees and use them for farmland preservation planning, zoning, and compliance monitoring”. There was some discussion if we would be returning the money, but we cannot. Also, we will be collecting no further and do not have the ability to do so.

Honey Lake Management District County representative – Michael Cotter said we have one applicant, Robert McIndoe to fill the position. **Supervisors Grant and Hawkins moved and seconded to approve Robert McIndoe as the Honey Lake Management District County representative. Motion carried 4-0.**

Southeastern Association of Land Conservation Committees Summer Tour, Waukesha – Louise Olson said the date of the tour is Monday, September 12, 2011. The theme will be water withdrawal from the Great Lakes into Waukesha County. Anyone attending should let Ms Olson know for the next meeting. They will be leaving the Government Center at 7:30 a.m. and returning at approximately 2:30 p.m.

WLWCA Annual Conference December 8-9, 2011, Volunteers Needed – Louise Olson said the deadline for sign up is August 1, 2011. Can be done on line or contact Ms. Olson.

Next Meeting Date – Monday, August 15, 2011 at 1:30 p.m.

Adjournment – **On motion and second by Supervisor Hawkins and Citizen Member Burwell, Chair Kilkenny adjourned the meeting at 2:44 p.m. Motion carried 4-0.**

Submitted by Joeann Douglas, Recording Secretary. Minutes are not considered final until approved by the committee at the next regularly scheduled meeting.