

Memo to Oak Creek Subdivision Residents

August 18, 2014

From: John Justin Wyeth, Attorney

Re: Morgan Creek Drainage District - Status Following Hearing before Court today

SUMMARY:

As was announced by a prior mailing to all residents of Oak Creek, the Board voted to engage my services for the Oak Creek Homeowners Association [OCHOA] at the August 3rd Board meeting to represent OCHOA. By extension, I am representing the interests of the individual residents. My appearance on behalf of the Oak Creek Homeowners Association was filed on Tuesday, August 12th. This morning was the hearing date. The matter was continued to November 7th 2014 to allow us to gather information regarding the proposed Drainage District. I will attend the September 8th OCHOA Board meeting to discuss this matter. And, I will contact the attorney for the petitioner to schedule a date thereafter to have them present information to us regarding the proposed Drainage District.

REPORT:

The goal which was discussed and agreed upon at the August 4th board meeting was to seek an extension of time at the August 18th hearing in Court. This was basically accomplished in my telephone conversation with the proposed Drainage District's attorney. In addition, it is clear to me that Judge Pilmer would be very unlikely to rule on the Petition on August 18th. This is what happened this morning leading to the next date of November 7, 2014 at 1:00 PM in Courtroom 115.

The time will be used to gather information and discuss that information to formulate our response, or, to seek and obtain an agreed resolution which would conclude the matter. To this point in time, we have agreed that we will stay open minded as to whether there is a need to be a part of the Drainage District, or whether it makes sense to object and to take the legal steps to challenge inclusion in the proposed Drainage District. I do not feel that any of us are sufficiently informed to have an opinion at this time.

As I mentioned above, I called Attorney Kyle Emkes (the attorney for the proposed Morgan Creek Drainage District) on Wednesday, August 13th and we spoke for over 30 minutes. During that conversation, he indicated that his office had logged approximately 800 calls from Kendall County since the notices were sent to all of us. The 800 calls were from all four of the proposed districts, not just Morgan Creek. He agrees that informational meetings will be needed, and he intends to engage in such meetings. I will contact him for dates sometime in September, after the September 8th Board meeting.

As to other actions that I have taken in the last three weeks, I have reviewed two legal objections filed by land owners within the proposed areas. Those filings will be useful for us if we object. I have also spoken with an Oswego Village Trustee, the Oswego Village Attorney, and County Board Member Scott Gryder (who may also be involved in the information meetings). They are all gathering information as just like us.

After today's hearing in Court, many of those in attendance returned to the OCHOA Clubhouse and we had a discussion of the events, the concerns and the course of action going forward. The following points were made, which will be a part of my discussion with the Attorney for the Drainage District:

- 1.) Oak Creek has storm water maintenance facilities, most notably the "pond" which we know was designed as a detention basin.
- 2.) Oak Creek has not 'flooded' but it has come near the banks of the berms, and very near to the bridge serving the three homes on the south side of the Creek.
- 3.) We need to remain involved to have input and to gain knowledge regarding any increases to the flow in the creek which could cause storm water to rise over the tops of the berms and over the top of the bridge.
- 4.) While a many of the homes in Oak Creek are not threatened by Morgan Creek because they are not near Morgan Creek, OCHOA does not wish to be known as a 'neighborhood that floods'. Therefore, there is reason for OCHOA to remain united at this time. Of course, that could change.
- 5.) A 'baseline flood elevation' was established at the Route 71 and Minkler Road bridges across Morgan Creek. The Drainage District must not increase that elevation. Decreasing would be acceptable. Increasing it could result in some homes being flooded or at least needing to purchase flood insurance.
- 6.) The 'work' of the Drainage District would appear to be the removal of silt and obstructions in current water ways that drain the Morgan Creek Watershed. The work could also include dredging and repair of culverts that transmit the water. A map is available at the Kendall County website: http://gis.co.kendall.il.us/map_gallery.aspx
- 7.) This work should extend to the Fox River.

I look forward to continuing this discussion, and representing all of you to resolve this matter in our mutual best interest.

John Justin Wyeth