

Memo to Oak Creek Board Members

November 18, 2014

Re: Morgan Creek Drainage District – Update after 11.7.2014 Status Hearing

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This Memo picks up where the last one left off. Both the County Forest Preserve District and the Village of Oswego filed detailed Motions to Dismiss. I forwarded the Oswego Motion to the Board by previous email. The County's adds the concept of putting the issue before the voters in a referendum. I don't think that we would object to that, and I expect that it would be soundly defeated.

Staying with the 'minimalist' approach, I filed our Motion to Dismiss by adopting the arguments raised in both the County and Village Motions. I will send a copy of it to the Board, too. The only additional argument that I have raised is that Oak Creek has stormwater attributes that were built in accordance to the requirements of the County Storm Water Ordinance. I quote a portion of the current version that describes that it will address many of the issues that the Drainage District would address. My arguments conclude that since the Drainage District is redundant [i.e. duplicates the Storm Water Ordinance], OCHOA will gain no benefit and the Petition should be dismissed.

My objective opinion is that the District has a decent chance of passing, so my argument also begins to inform the Court that we don't get a lot out of it, therefore we should be assessed only a small amount, too. That argument will be more important if the Drainage District is formed.

At the Status Hearing on Nov. 7<sup>th</sup> Judge Pilmer Ruled:

1. A briefing schedule was entered leading to a Hearing on the Motions to Dismiss set for January 15<sup>th</sup> at 1:00 PM before Judge Krentz. Judge Pilmer is being transferred to DeKalb County, and Judge Krentz will take over this case.
2. The Big Slough Drainage District was approved. In approving, Judge Pilmer a) ruled that the 'reactivation' was OK, because he believes that Drainage Districts are 'perpetual'. [We disagree in our Motion to Dismiss], and b) Ordered the County Board to appoint permanent Commissioners by January 1<sup>st</sup>. This is a good development as I think that the County Board will choose commissioners that represent the subdivisions as well as the farms.

A preliminary drainage report has been filed. It seems to back up the idea that we would be assessed a small amount, i.e. \$25 per home per year. One of my goals is to seek assurances, perhaps even a settlement, with the Petitioners to place a cap on the assessments. Say \$10/year. I hope to have a discussion with the Attorney for the Petitioner in the next few weeks to seek this conclusion.

One of my worries was what would we do if flooding becomes a problem. The Storm Water Ordinance seems to provide a framework for addressing such an occurrence. I intend to come to the December Board meeting.