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August 16, 2017

MEMO

Special Assessment Process – Village Dam Project

TO: Laurie Mueller, Village Clerk
FROM: Stan Riffle, Village Attorney
RE: Special Assessments for Dam Project

Laurie-

You have asked me to give an overview of the special assessment process in Wisconsin. Special assessments are charges levied by local governments against real property to defray the costs of public work or improvements which benefit such property. For over a century, Wisconsin municipalities have used special assessments as a method to finance local public works and improvement projects. Special assessments are flexible. They can be used to pay for street construction, curb and gutter, storm and sanitary sewer improvements, water mains and facilities, tree removal, park land condemnation and many other public improvements, including dam reconstruction. Because only those properties which specially benefit from the improvement bear the cost of the improvement, the general property tax is not burdened. Special assessments, therefore, are useful financial tools for municipalities.

In the case of this dam project, the benefited properties will be determined based upon whether they enjoy a special rather than a general benefit. The assessments must confer some special benefit and not be arbitrary or allocated unequally or unfairly. Property specially assessed must be benefitted to some extent, and method of assessment must be reasonable, not arbitrarily or capriciously burdening any group of property owners. By way of example, owners of lots located on the lake created by the dam enjoy the benefit of being lake riparians (which would be lost if the dam were to be removed) as opposed to lots not located on the lake. Similarly, lots located below the dam in the flood-way would benefit by improvements to the dam which, if not made, would create a hazard to their improvements. The nature and extent of the assessments will be determined by the Engineers Report that will be drafted when construction and project costs are better defined. At that time, the processes of §66.0703 Wis. Stats. will be followed and all property owners will receive required notices and opportunity to be heard at the public hearing. These processes are outlined on the following pages.

If you have further questions, please let me know.

Stan

SPECIAL ASSESSMENT PROCESS

Section 66.0703, Stats.

1. Governing body determines that installation or construction of public work or improvement is necessary and that the properties that are benefitted from the work should be charged all or a portion of the cost.
2. Pass preliminary resolution exercising special assessment powers. Resolution should generally describe the project, the area of the proposed assessment district, the number of installments that the assessment may be paid in or that that determination will be made later and direct the appropriate person to prepare the assessment report. §66.0703(4), Stats.
3. Assessment report is prepared (engineer, department head, etc.) §66.0703(5), Stats.
4. Finished Assessment Report is filed with municipal clerk for public inspection. §66.0703(6), Stats.
5. Select public hearing date. Select date not less than 10 days after publication and not more than 40 days after publication of Class 1 notice. §66.0703(7), Stats.
6. Publish Class 1 notice which must include:
 - nature of proposed work or improvement
 - general boundary lines of proposed assessment district (may also include small map)
 - place and time where report may be inspected
 - place and time for public hearing.
7. Mail class 1 Notice to every interested person at least 10 days before the hearing.

OPTION: The notice and hearing may be waived in writing by all owners of property affected by the special assessment. §66.0703(7)
8. Hold hearing
9. Approve, disapprove or modify assessment amounts or refer matter back to report preparer with directions for change.
10. Adopt Final Resolution directing work or improvement to be made & paid for as in report.
11. Publish final resolution as Class 1 notice
12. Mail copy of final resolution to every interested person.

SPECIAL ASSESSMENT ANNUAL INSTALLMENT INSTRUCTIONS
Section 66.0715, Stats.

1. Publish Class 1 Notice: "Installment Assessment Notice", see attached. (§66.0715(3)(c), Stats.)
2. Determine proportion of principal to be paid per installment (total amount divided by the number of years approved in preliminary resolution or the report). (§66.0715(3)(b), Stats.)
3. Determine the amount of interest on the whole assessment.
4. Determine the time frame upon which interest will be imposed, start with the date the Installment Assessment Notice is published and end with December 31st of last year of payment (as determined with the preliminary resolution or in the report). (§66.0715(3)(b), Stats.)
5. Annual installments will equal the proportionate amount of the principal and interest. (§66.0715(3)(b), Stats.)
6. Enter the first installment on the first tax roll after the installment has been determined as a special tax. Each subsequent installment is entered on each subsequent tax roll. (§66.0715(3)(c), Stats.)
7. OPTION: Property owner elects to pay the whole amount of the assessment. Owner must deliver a notice of election within 30 days of the publication of the Installment Assessment Notice. (§66.0715(3)(e), Stats.). Must pay by November 1 otherwise the whole amount will be placed on the following tax roll. (§66.0715(3)(e), Stats.). Property owner may revoke initial notice to pay in full anytime after filing it up until 30 days before payment is due (on or before October 2).
8. OPTION: If property owner does not make full payment election within 30 days, but changes mind, can do so, but must pay any and all accrued interest. (§66.0715(3)(f), Stats.)
9. Schedule of assessments and assessment installments shall be recorded in the Town Clerk's office. (§66.0715(3)(g), Stats.)

INSTALLMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment for the improvement has been determined as to each parcel of real estate affected and a statement of the assessment is on file with the.... clerk; it is proposed to collect the special assessment in.... installments, as provided for by section 66.0715 of the Wisconsin Statutes, with interest at.... percent per year; that all assessments will be collected in installments as provided above except assessments on property where the owner files with the.... clerk within 30 days from date of this notice a written notice that the owner elects to pay the special assessment on the owner's property, describing the property, to the.... treasurer on or before the following November 1, unless the election is revoked. If, after making the election, the property owner fails to make the payment to the.... treasurer, the.... clerk shall place the entire assessment on the following tax roll.
Dated....

.... [Clerk of (name of local governmental unit)]



DRAFT - Water Level Drawdowns – Lower Spring Lake

Water level drawdowns mimic the natural rhythm of the water levels.

Winter drawdown - Mechanics

- Permit from DNR
- The water must be drawdown by October 1 to ensure that the amphibians and turtles hibernate in the areas under the drawn down water. Otherwise, they will freeze and perish.
- Depth?
- Length?

Benefits

- 30% permanent compaction of the sediment – IF the conditions are cold and dry during the winter. Not as much compaction happens with snow cover.
- Aquatic plant species that predominately reproduce by seeds will benefit. These include the following which are located in Lower Spring Lake: Eurasian watermilfoil,need more information

Disadvantages

- Aquatic plant species that reproduce mainly by fragmentation or cloning don't benefit. These include the following which are located in Spring Lake: white water lily, ...need more information

Unknowns

- The extent of curly-leaf pondweed control is unknown until we know the conditions during the drawdown. Curly-leaf pondweed turions (winter seeds) will only be killed if the sediments freeze. If there is a lot of snow cover or a mild winter, then most will not be killed.
- If there are springs that continue to flow during the winter drawdown, then those areas will not have good invasive species control or sediment compaction.

Fish

- The fish will either concentrate in the deep areas or the lake or swim up or down stream.
- There will be an impact to the fishery – but it will naturally rebound after a few years.
- It would be good to have a restocking plan to assist the fishery to rebound more quickly.
- The fishery biologist recommended that you have a restocking plan in place before the drawdown occurs.
- Stocking can happen in Spring or Fall. It would be important to work with the group in town that does fish stocking.
- An emergency rule process through the DNR may exist to put restrictions on fishing during the drawdown. The fish biologist will be sending this information to me.

Other Factors

- During a drawdown will be the best time to accomplish any dredging. DNR permits are required for dredging.
- Because water drawdowns are a good tool to managing invasive aquatic plant species, it is important to work with the Village on the dam repairs to make sure they chose repairs that enable the dam to draw down the lake in the future.

DRAFT

2 Dam Repair Funding Alternatives

Special Assessment by Village

41 Lake District members in Village

Special Assessment

+

General Taxes for Dam Repair

10 Lake District members in Town

NA

NA

Contribution from Lake District

41 Lake District members in Village

78% of the Contribution

+

General Taxes for Dam Repair

10 Lake District members in Town

22% of the Contribution

NA