OFFICE OF WATER MANAGEMENT
JAN 13 11 40 AM '99

INDIANA DEPARTMENT OF ~~ENVI~~RONMENTAL MANAGEMENT

OPEN MEETING HELD ON THE

PROPOSED FORMATION OF THE

FAIRWAYS REGIONAL WATER DISTRICT

REPORT OF PROCEEDINGS had at the hearing of the above-entitled matter was taken pursuant to Notice as to time and place before Susan M. Pudlo, C.S.R., a Notary Public within and for the County of Lake, State of Indiana, at the Cedar Lake Town Hall, on the 15th day of December, 1998, commencing at the hour of 7:00 o'clock in the evening before Hearing Officer, Lynne Newlon, Indiana Department of Environmental Management, Office of Water Management.

FISSINGER & KNIGHT, INC.

(219) 931-7293

ORIGINAL

MS. NEWLON: Good evening. Can I have your attention, please? I'd like to get things started. It's 7:00 o'clock.

First off, would the official reporter designated for the hearing please stand and raise your right hand and state your name?

THE REPORTER: Sue Pudlo.

(Whereupon the court reporter was sworn in.)

MS. NEWLON: My name is Lynne Newlon. I'm a senior environmental manager in the Office of Water Management in the Department of Environmental Management. I am the hearing officer for this hearing. The hearing this evening, December 15th, 1998, is before the Department of Environmental Management henceforth referred to as the either the "Department" or "IDEM" in the matter of the proposed formation of the Fairways Regional Water District.

Oral statements will be heard this evening, however, written statements may be submitted to me at the hearing or mailed to Lynne Newlon -- and actually over here I have my card that has my name and address as well as e-mail on it, so it's Office of Water Management, Indiana Department of Environmental

Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015. It is on my cards.

For the record, notice of time and place of this hearing was given as provided by Indiana Code 13-26-2-6 by publication in the Post Tribune and the Lowell Tribune during the weeks of November 30th through December 5th, 1998 and December 6th through December 12th, 1998.

Sign-in sheets have been provided. If you have not signed in yet, here they are, please do so now. If you wish to present IDEM with information this evening, please indicate this on the sign-in sheet. Also indicate if you will be appearing for yourself or on behalf of a group. If you are appearing for a group, please note the name of the group and in what capacity you are appearing such as a group officer, attorney or an authorized spokesperson. Finally, if you wish to receive notice of the agency's decision in this matter, please indicate this on the sign-in sheet and be sure you have provided a complete and legible address.

If you received notice of this hearing, you are already on the list to receive notice of the agency's decision.

At this time I would like to give a brief presentation on IDEM's review process for a petition to form a regional water district. We will then begin hearing testimony regarding the proposed district. Because the purpose of the hearing is to allow the public to present information pertinent to the formation of the district, we ask that you hold all questions until the hearing is concluded. At that time we will conduct an informal question and answer session.

So with that in mind, let's take a look at the review process. The first step in the process is submission to IDEM by an eligible entity of the Regional Water District petition. By an "eligible entity" we generally mean a town, a city, a township or county commissioners. The second step in the process is a review by the Office of Water Management staff. The staff is responsible for the technical review of the submittal. They review the environmental need of the project, the economic feasibility, as well as the technical review with the information that is presented in the petition.

The plans that are submitted in this situation are not detailed engineering plans and

specifications. At this point in the process what we're really doing is assessing the feasibility; in other words, how reasonable is it for the petition to proceed forward.

Staff also looks at the description of the territory and makes sure that there is no overlap between the territory that's been described for the district and other entities' territories that have authorization to operate.

The last step is a review of the economical feasibility project, and, again, what we're talking about here are estimated costs based on the petitioner's assessment of the situation. One of the things that staff normally do when they receive a petition is to verify that the cost for operation and maintenance of the system and the hook-up costs are reasonable in light of what has been done with other systems.

If the rates seem unusually high, then IDEM generally verifies that the average household income in the district indicates that it's affordable. They investigate the number of users, the number of residents, the type of fees and whether or not those seem reasonable, especially in light of their

experience. They take a look at the debt load or the outstanding indebtedness of the county or the district and make sure that the district is actually able to afford it and doesn't have a great deal of debt load.

They also make sure the method of financing is adequate and seems reasonable. And, finally, they make sure the petitioner has held ample public meetings in order to receive adequate public input.

The next step in the process is to send it to IDEM's Office of Legal Counsel. The Office of Legal Counsel verifies that the petition has been submitted in accordance with the law. It also verifies that there is a reasonable and legal means for the selection, term and the number of members of the Board of Trustees.

From there staff drafts and issues public notice on a hearing and a hearing officer is selected, and that's where we're at today. The hearing officer then holds the hearing and after the hearing takes the testimony received at the hearing and drafts a report and makes recommendations whether to approve, disapprove or to approve conditionally the petition itself.

If the hearing officer recommends approval of

the petition, then a "commissioner's order," which is a legal document that gives permission to the petitioner to actually form the water district," is proposed. If the commissioner decides to sign that document, then it is mailed to the petitioner, and the district becomes legal 33 days after the petitioner receives the order.

As with any final decision of any agency, the decision is appealable and information on how to appeal that decision will be included in the notice that you receive from IDEM, and that concludes my discussion regarding forming a district.

Indiana Code 13-26-2-3 sets out the requirements for formation of a district. I'm not going to read the statute since it's very long and boring, but I would like to highlight the requirements. We strongly encourage that comments be limited to these requirements as these will be the comments most useful to IDEM in this decision.

The statute requires the following: that the petition be filed by an eligible entity and the proposed district name and location of the principal office be stated; that the petition state the need for the district, the purpose the district will accomplish, and how the district will be conducive to public

health, safety, convenience or welfare; that the petition state how water supply is currently being provided and how the current situation creates or adds to pollution or health hazards or impedes development in the area; that the petition must state if there is any outstanding indebtedness for the purpose proposed; that the petition accurately describes the territory to be included in the district and that the territory be so situated as to promote the public health, safety, convenience or welfare by organization as a single district; that the petition provide recommendations regarding the make-up of the Board of Trustees and the manner of selection; that the petition state the plan for financing the cost of operations of the district until it receives revenues from operations or proceeds from bond sales; and that the petition state an estimated cost of accomplishing the purpose of the district, an estimate of the costs of operating and maintaining the works and the sources of funding of these costs including estimates of the rates and charges to be required.

Again, the Department is extremely interested in any information that you can provide with regard to these requirements. All comments, both oral and

written, will be reviewed by IDEM and carefully considered in making a decision in this matter.

There's a few people that are going to testify, and I'm going to limit comments to five minutes so that everyone has an opportunity to be heard. If your testimony exceeds five minutes, I would ask you to submit the remaining information to IDEM in writing before December 31st, 1998.

At this time I would like to make sure everyone has signed in so we can begin hearing of the testimony. When I call your name, please approach the microphone. If your name is a difficult one to spell, please spell it. If I call your name and you no longer want to testify, just let me know. If you decide during the hearing that you would like to be heard, I will give that opportunity after I go through the list of people that have marked that they would like to be heard, so if you said you didn't want to be heard, I will give that opportunity at the end of the hearing for anyone to come up and speak.

Please speak clearly. Remember, this is being recorded. You must remember one person must speak at a time. Thank you for your cooperation.

I'm not great with names, Mr. and Mrs. Gerald

Jester. Would you like to speak?

MR. JESTER: Not at this time.

MS. NEWLON: Not at this time, okay.

Diane Schoon?

MS. SCHOON: Diane Schoon, S-C-H-O-O-N. Basically I just want to say that I'm positive and for this. I think the staff has done a great job in trying to get this together for us. I think it's important that we do something about our water situation that we have in the Fairways right now. I'm soon to be a mother of four, and I am not comfortable with our water situation as it is now.

I know that McMahon & Associates has done quite a bit to improve it, but I think that we need to take it further, take steps to improve it even more, and I would basically just like to say that I'm very much behind the proposal that they have on the table to form the water district, and that's basically it. Thank you.

MS. NEWLON: Thank you. Ed W-I-C-H --

AUDIENCE MEMBER: Pass.

MS. NEWLON: Bob G-H-I-D-O-T-T-I. I'll spell it for her so you don't have to spell it.

MR. GHIDOTTI: My name is Robert Ghidotti,

and I'm an officer of the Dalecarlia Fairways Association, and I'm also a member of the board that looked into forming this district, and I think it's important that we do proceed with this.

As the saying goes, we have all the pieces in place now, we do have the financing and we do have the people, the expertise, and I think it's imperative that we do proceed now. We can't hesitate, because if we do, it may all be lost. We cannot come back five years from now and say, well, we made a mistake this time or we made a mistake five years ago, now we have to correct that mistake.

We've worked on this for 18 months, and the reason why we worked on it simply was because the former owner of it was negligent in what he was doing. He was not taking care of the facilities, and I think it's important now that we proceed in what we're doing. We had -- there were times when we didn't have water for three and four days just this past March which could have been easily remedied, and the water quality, et cetera, et cetera, has not always been the best, but right now we have people that are willing to try to alleviate these problems as far as water quality and things such as this, so I think it's important that we

do proceed.

Let me just say one thing, when I say the former owner was negligent, let me just say he was -- how can I state that? He just didn't care, okay. He just didn't care. He was over in Fort Wayne. Now the residents can determine the type of service, the kind of facility and the kind of water quality that they want. Thank you.

MS. NEWLON: Tom Govert.

MR. GOVERT: My name is Tom Govert, and I live in the Fairways. I've lived there for 26 years. I'm in favor of the district. Our water system is in great need of repair. My decision is based on all of the facts that have been presented.

A couple of things that I'd like to point out here, there's no assessment as it's been presented, there's a large grant that's hanging out there that's in jeopardy of being lost if we don't do something. The system along with everything that goes with it, it's in the road, and it has caused because of the quality of the water and what has happened to our roads has, I feel, held the value of our property down, and I think that for all of our neighbors that not only would we improve the quality of the water, the safety of the

water, we would also be able to improve the value of our subdivision with better water and the roads that would go along with it. Thank you.

MS. NEWLON: Thank you. Lou Hichman.

MR. HICKMAN: There's some figures in here which I know are boring, but I think we need to consider them because it's part of our lives, it's going to make an impact on us. We pay the bills, so I think we should have some involvement in how the money is spent.

Just to give you a little background and a little history, late Friday on June the 26th a notice was placed in our mailbox notifying all Fairway homeowners of a meeting Tuesday, June the 30th. That's only four days notice over a weekend. The purpose was to consider and review the option to purchase Dalecarlia Utilities, but instead of considering and reviewing, a vote was taken.

The Fairways Flyer of 7/9 stated the homeowners voted five to one to approve an option to purchase the entities of Dalecarlia Utilities. Well, the actual vote was 16 to 3, and of those 16 yes votes, as I recall there were only 13 homeowners represented, so actually it was only 13 yes votes, and of those 13,

6 of them were members of the Citizen Advisory Board or officers of Dalecarlia -- or the Fairways Association and one member who is getting employment, so there actually were only 6 unbiased votes yes. Now, that is a far cry from 5 to 1 of the homeowners being in favor of this proposition.

If that were true, that would take 70 homeowners to say yes against 14 saying no, and this is sort of the way a lot of this has happened. We just haven't been kept apprised of what's been going on, and we feel like we should have been. We would like some input too. This may have gone to a point now where it can't be reversed, however, we feel that we should have some say in how this money is spent now because it's our money and we're going to be paying the bills, and this $58 a month for water and $92 for water and sewer may sound like chicken feed to a lot of you, but it's real money to a lot of us also. That amounts to $600 a month -- a year rather. You take that with an increase in the proposed property owner taxes of anywhere from 10 to 40 percent plus all of the other increases, you're starting to talk real money.

Now, these decisions have had a major impact on our finances and the value of our property. The

extra $630 a year -- I've already talked about that, okay.

We have no guarantees that the final figure will be 92.50. It's been all over the map. It's been as high as 124.68 a month. It was on their transmittal of 8-6-98, only the figures have changed, but none of the work appears to have changed. The estimates have arbitrarily reduced the cost. The six-inch main cost reduced from 20 to $15 a foot, and there's 7700 feet of it. I hope you don't get bored with these figures, but I think they're important.

They've omitted surface restoration for pavement repair. Well, there still will be some. They have nothing for land acquisition, anyplace to put the second well. They're using $10 a foot for new service connections. Well, that will probably be three-quarter inch copper pipe and will have to cross the street every 90 to 100 feet, so they either have to dig up the street every 90 to 100 feet or they have to -- as this gentleman here suggested -- use a directional bore, but I'm not real familiar with directional bores, but they did have one instance in some of their estimates where they called for $75 a foot for a six-inch directional bore, so this might cost maybe $50 or $60 a foot. If

it costs $60 a foot, that's an additional $60,000.

Now, if this is done, then the new curbs installed last year will probably have to be replaced at last years' figure of 38- to $39,000. Now, there's no item for landscape repair or tree replacement. Willard has beautiful trees in front of their house, those will be gone. They can't be replaced. And all of you that have trees, I don't think there's any intention to replace those trees. There's landscaping that will have to go. I have a street light. There are several street lights because when they first developed out here, gas lights were furnished with all the homes.

There's just all kinds of damage going to be done to our property. There's no item for landscape -- I just covered that. All of the above and more cause us to fear that when the bids come in, the cost will have skyrocketed. Additionally, the proposed new mains will dramatically disrupt our lives, so shouldn't these projects be thoroughly discussed, understood and agreed upon by a majority of our homeowners before contracts are signed?

We were told that our share of the $900,000 grant is $515,000, but 150,000 has already been fretted

away. Gary Radtke informed Ed Levin that the final non-construction costs would be $350,000, leaving only $165,000 for nuts, bolts and pipe, and this just seems almost obscene to me.

Some of our people recently made calls to Governor O'Bannon's office and were informed that actually they -- and she said legal fees would be 400,000 out of this 900,000. I think she probably meant legal and engineering and so forth, however, 400,000 may be short because if McMahon wants $350,000 for the water system, I'm sure Lake Dale Regional Waste District has need for some more money, so this could exceed $450,000.

McMahon originally estimated there were operating, engineering and maintenance costs at 22.50 a month per homeowner for water, but when Lake Dale reported sewer costs at 36.10 instead of 51.90 that had been predicted by McMahon, McMahon increased the water OE&M, that's the operating, energy and maintenance costs, to 37.32. That's an increase of 14.82 a month to each homeowner per month. The largest portion of this increase was for administration. Your bill will now include $14.88 a month per homeowner for administration.

Don Rice's total charge for water was only $7.86 a month. Now we know that Don didn't provide very good maintenance, but McMahon's administration charge of 14.88 is nearly double what he charged total for water.

Now, the new proposed 58.51 for water represents a nearly 750 percent increase in our water bill. Now, we were told we needed to spend $577,595 to make our sanitary sewer system serviceable. It was beyond repair. It had to go. The sky was falling. Now it's reported that 20,000 has our treatment plan meeting IDEM's requirements.

The county's recent repairs to our storm drains after 30 years of neglect and some sump pumps being disconnected has helped alleviate sewer backup and lift station surcharges. I know of three sump pumps that have been disconnected, and probably there are many more. You who have them, you know who you are.

The discharge from one sump pump equals the normal effluent discharge of 10 to 13 homes, so it only takes 6 to 8 sump pumps to double the flow of our normal flow of our sewer for our 84 homes.

Now, if the bids come in in excess of the

budgeted costs, I don't believe contracts should be left until there's a consensus of the people who pay the bills.

Cast or iron has been a normal material used by municipalities for well over 100 years, and it's served them satisfactory service. They want to replace this with plastic pipe, PVC, which McMahon says has a life expectancy of 50 years, so why not consider repairing what we have instead of depleting and replacing it?

The other avenues to explore -- I just read in the paper about a system to repair piping called IE thermal pipe, maybe you know about that, and these things should be all explored before we spend a huge amount of money and tear our lives up, and we might even want to consider a minimal monthly charge to put some money in escrow in case there is a line break. Those are just my ideas. I hope I didn't bore you, but I have some strong feelings about this because I just hate to see money spent unwisely. I don't mind spending it if I feel it's necessary, and I haven't been convinced that this is necessary.

MS. NEWLON: Thank you.

Ronda Smith?

MS. SMITH: I would have to say that I'm in support of revising our water system as it is -- as it was. I think any further delay would only add to the expense that we're going to be forced to pay later down the road, and I think there's no time like the present to just go forward with what appears to me to be the most beneficial thing, and that would be improving our water, and that's what the committee has worked so diligently to get past and to get where we are now. Thank you.

MS. NEWLON: Okay, well we've gone through everyone that checked off that would like to speak. Is there anyone else?

Come up and please state your name.

MS. EVOLDI: I'm Suzanne Evoldi. I'm president of the Fairways Association, Incorporated. Honorable Lynne Newlon, hearing officer, and those gathered here this evening, the need for formation of the Fairways Regional Water District is great indeed. In just five short months, the Fairways Homeowners Association has proved what we can do. We've turned around a failed utility system that was under violation from an agreed order dating back to January 22nd of 1992 with numerous uncorrected sanctions.

During just five short months we have upgraded our entire drinking water pump house, installed a new ten-horse pump and backup generator, dealt with leaking chlorine tanks and a serious HAZMAT spill plus dealt with a 25,000 gallon e-coli spill from either a failed lift station motor or lack of keys from the former owner to give us access. We've brought into compliance as well the sewer plant during the interim period. Even though IDEM has given us a grace period, we still continue to bring it up to permit.

We've brought responsibility to a serious private utility situation as well as obtained a $900,000 grant that we can only access with the formation of a public entity, that is, the Fairways Regional Water District. We've surmounted many trying obstacles both within the subdivision and without. We've met our challenges. We've reached agreement over territory for the solving of the sewer problem. We've answered many questions many times to our residents. One need only look at the secretary-treasurer's fees for copies of graphic and duplication costs. We have kept people up to date.

To get some personal insight, late at night one night an 85-year-old widow called me, maybe late

for her, 9:00 o'clockish, is this water safe to drink? Another one of our members, a resident with two small children, her doctor had told her to soak the babies in water to bring a high fever down, I think we're talking about 104 degrees, and she said "I can't, I have no water coming out of my tap," and there was silence from her doctor. We went four-and-a-half days without water, from Monday of the 9th of March until late Thursday afternoon.

During this same winter period starting December of '97 through the spring, not including the four-and-a-half day period, we've had four main breaks.

Give us the opportunity to form our public Fairways Regional Water District so that we can and will deliver good clean, safe drinking water to 84 homes for many years to come. Never again will we be at the whim of outsiders who don't have the care nor concern of the Fairways at heart like its own Fairways Association does. We want to control our own destiny. We cannot live without water. With IDEM's approval, we now will enter a new cleaner, healthier era in the history of the Fairways Subdivision. Thank you.

MS. NEWLON: Thank you.

Is there anyone else that would like to come

up and give testimony? Please come up.

MS. WICKMAN: Carol Wickman. On the day that she was speaking about, no water during the storm, I had water. We took showers. I did laundry, three loads of laundry. I had water. I am against the forming of this district.

MS. NEWLON: Yes, sir. Please come up and state your name.

MR. JESTER: My name is Gerald Jester, and I'm just here to say that we were also without water for four days. I don't know where they got their water.

MS. NEWLON: Anyone else that would care to come forward and give testimony?

MR. FRIEDMAN: Shaw Friedman (phonetic), attorney for the Fairways Association, Incorporated. I want to indicate for the record we appreciate the support and cooperation of the Indiana Department of Enviormental Management as you consider the application that is pending before you.

Tonight is really the culmination of an effort by a lot of people, and we've talked about an effort, it's a team effort to bring us to this point in time. I think there ought to be a justifiable sense of

pride in the people in this room in terms of getting us to this point. This has been a collaborative effort over a great deal of time since we were first brought into this project, and it is a perfect example of government doing the kind of things that it ought to be doing for people. These are people that have come together, who have organized, who have petitioned for redress as it were and have done the necessary steps, have properly jumped over all the hoops and the hurdles, getting the support of county government, the various other governmental entities, obviously putting together a plan that makes economic sense, bringing in an engineering firm and working with local people to come up with a plan and then ultimately negotiating a compromise with our neighbors that allow this plan to go forward.

Clearly as others have indicated tonight on the record, the establishment of the water district is essential for this plan to work. We have an opportunity, and we are at a real water shed, if you will, for this community to make a difference to finally get these citizens the kind of service that they're entitled to and that they should have had for many years. We're at an exciting juncture, and we

would ask for IDEM's support for this petition now pending before you.

MS. NEWLON: Anyone else that would like to give testimony?

Please state your name.

MR. LEVIN: My name is Ed Levin. I'm with the Federal (inaudible) Committee. We've heard a lot of slick talk from a company that has unlimited resources for their program, and unfortunately we don't have that.

And as far as the Fairways itself, I understand that part of the qualification for a regional waste or regional water district would be financial security, financial possibilities. The Fairways Association has no financial money to run a campaign like this. It was only done because McMahon had deep pockets.

Now, the only money that comes in is for golf course fees, and that's supposed to go entirely to the golf course. Any other income at present is for operating the existing utility, and McMahon has said they're losing money on that right now, so if it were not for playing on the scene, they wouldn't have got that far. McMahon has prepared all the papers for the

grants, et cetera.

Also, the people that have been running this in the Fairways have been -- what can I say -- they have supported a contractor in a manner that I've never seen in my life, and I have over 35 years in dealing with contracts. Normally in a project of this size you would go -- the wise thing to do would be to go to an independent engineer to set up the specifications for your project, then you send it out for bid, and normally three bids.

Well, we were offered three options which you could consider, one option was to either retain Rice to own the utility; the other option would be to go to Lake Dalecarlia who has a regional waste district and, of course, the option to go with McMahon. However, the two options other than McMahon were by I'd say -- I believe it would have been -- yes, July 28th, 1997. By that time those two options for all practical purposes obliterated, so from then on McMahon had a free hand to proceed on their own with no opposition.

I'll just read a little bit here. This is on a letter dated April 18th, 1997. It was addressed to Theresa Stoner of Lake Dale Regional Waste District, signed by Suzanne Evoldi. "At this point we are

proceeding other options with our attorney." She said "we," there was no other "we." She had no vice president. She had no Board of Directors. This is her opinion, not the opinion of the entire Fairways. I'll go on. "We are proceeding other options with our attorney because I perceive most residents in the Fairways are opposed to Lake Dalecarlia Regional Waste District acquiring Dalecarlia Uilities. Some of the opposition is vehement." She was vehement. We were not. "We want an independent management company to take over the Lake Dale Regional Waste District."

Now, she wants -- she wants an independent management who I would assume in her mind was McMahon because I believe she was already in contact with them by that time. I think that's very unfair and very unorthodox.

The letter of July 28, 1997 to Shaw Freidman, in this she says -- I won't read the whole thing, "we will need to get in contact with, one, Attorney Robert Blennin (phonetic) of the Indiana Regulatory Commission, 1-317-232-2294," telephone number. Now, this is, again, July 28th, 1997. "The present owner needs to be removed from the scenario so that our engineers can move forward."

I want to make this clear. We were told around the end of June of 1997 at a meeting, the so-called hog roast meeting at the Fairways where we were first introduced to McMahon & Associates, and we were told, and we were told this several times continually that if McMahon didn't get the contract, they wouldn't charge for this preparatory work, which is common in bids. Many bids go out, the contractor makes up the bid, he goes through the time and money to do it, but if he doesn't get the job, that's part of his operating expenses. That's the way we believed it, but that wasn't so because by this time they had no opposition.

Now, that's a very dangerous thing because if one company has no opposition, how can you get fair and reasonable cost, and isn't that part of the utility code of what they're supposed to do? It says right in the State pamphlet that their job is to see that we get a reasonable utility at a reasonable cost.

Now, we have a lot of things along this line of where we were not informed, things were done without our knowledge, and it was a habit that things would occur and would come to fruition, but then we were told later the things that we should have been told before

because everything that they accomplished was in one direction: straight from McMahon. Very unfair. There's no way that we could get the benefit that we deserved out of the money that's to be spent without opposition, and that's a given throughout the world in contracting.

Now, I have other things to say here, however, I'm going to contradict a few things that have been said. First of all, we're constantly under the threat of losing the grant because of time. Well, that's not the right way to look at it. There's a lot of money to be spent, and I don't think enough time has been spent in the right direction.

They say that they're going to improve the water quality. Well, the only thing you can improve is minerals in the water or rust because there's been no epidemics of sickness from this water, it's been tested many times by the State and found safe to drink. I don't know how much they're going to improve it, but we're talking about the mineral and rust, and we've been also led to believe throughout this whole campaign many people think that they're going to be able to have water of such quality that they won't need water softeners.

Now, I brought that up to Mr. Radtke many times, and he agrees that we'll most probably need water softeners, so not only will we have the cost of paying for the utility, we'll still have the costs close to what we have now.

Now, as far as the reasons for another regional district, of course we all know there is an existing district: the regional waste district. Now we're going to have the expenses of two.

Now, in the very beginning Lake Dale Regional Waste District spent a lot of money exploring this since I believe around 1992, and they had money to do it with, this was done out of their own pockets I believe, yet I don't think they've been given a fair chance at this. Yes, it was split, and that might have been a good thing, however, let me point this out --

MS. NEWLON: I'm going to give you two more minutes, and then you'll --

MR. LEVIN: If this State had the authority to appoint McMahon to run our water and sewer, now, they knew -- the State knew that we had some opposition to McMahon because of this bidding situation and other things, there's a matter of trust there too. Now, if you have the right to have McMahon run our water plant

and our waste treatment plant, why was it given to McMahon? They could have given it to an independent source. They could have just as easily have said you have Lake Dale Regional Waste District there, let them run it temporarily, but there was talk and an arbitrary decision made or maybe it was made by accident, what they thought was the best, but for us, we don't think that was the best way to go. It was not fair. I don't think the playing field has been fair from the very beginning.

MS. NEWLON: I'm going to have to cut you off, sir.

MR. LEVIN: I'll mail the rest of it to you.

MS. NEWLON: I appreciate that. I do encourage written comments, and once this meeting is concluded, we will have questions and answers.

Anyone else that would like to give testimony?

(No response.)

In closing I would like to remind everyone that written comments may be submitted to the Department, send them to myself, which my card is there with the address on or before December 31st, 1998. I also have a fax number and e-mail, so there's lots of

ways to get ahold of me.

These proceedings are now concluded. This cause is, therefore, adjourned until further notice from the hearing officer.

(Which were all the proceedings had in the above-entitled matter. Further questions and answers were heard following.)

****

QUESTION & ANSWER SESSION

MS. NEWLON: Now we're going to open it up to questions and comments. We're going to have I believe engineers and attorneys who are here to help answer any questions or concerns you may have.

Any questions?

AUDIENCE MEMBER: Yes, I have a question. The State did not give this to McMahon, they gave it to the Fairways; is that right?

MR. LEVIN: You misunderstood what I was referring to. They gave McMahon the right to operate the utility in the meantime until --

AUDIENCE MEMBER: No, the State didn't do that.

MR. LEVIN: Oh, yes, they did.

MR. KYLE: At a duly noticed evidentiary hearing which was perfectly lawfully convened in Indianapolis, the State through the Indiana Utility Regulatory Commission withdrew the operating authority of Dalecarlia Utilities to continue operating the waste water treatment plant and the water utility. The Regulatory Commission then temporarily assigned the

sewer Certificate of Territorial Authority to Fairways Association, Inc. on the basis that Fairways Association, Inc. had an operating contract with McMahon so that the State was certain it would be properly operated while that Certificate of Territorial Authority was temporarily held by the Fairways Association, Inc., and the Commission entered an order as such.

MR. LEVIN: Yes, I'd agree that that's correct, however they could have just as well ordered Lake Dale Regional Waste District to run it.

AUDIENCE MEMBER: They don't have a water system.

MR. LEVIN: They could have taken care of the sewers.

AUDIENCE MEMBERS: Sewers. This is water.

MR. LEVIN: Then they could have hired an outside operator to run it as they first ordered McMahon to do it.

MS. NEWLON: That was really with the Indiana Regulatory Commission as Mr. Kyle explained, so I wasn't involved at that part.

MR. LEVIN: I understand. We have it in writing exactly what happened. First Rice was to get

an independent outfit to run it. He couldn't get anybody or they didn't accept the ones he brought in, so then the State elected that McMahon would do it.

MS. NEWLON: Questions? Yes, sir?

MR. JESTER: Since very few people here spoke, are you going to assume that more people are for it as opposed to it or do you want a show of hands or --

MS. NEWLON: No.

MR. JESTER: It doesn't matter?

MS. NEWLON: I take testimony, it gets sent to me, I get comments written sent to me, some are pertinent, there's statutory requirements, and I have to go by that statute. Some are pertinent comments and some are not. I encourage any and all pro/con whatever comments to be sent to me, so, no, it's not a matter of how many is here or how many isn't, I'm not taking a vote.

MS. EVOLDI: Just as a point of clarification, when I initiated this process, I did contact five different engineering firms. McDonough was one of them in Hammond, McDonough, they wanted the project, they weren't concerned with operating it. Two local companies, one did not return my call; another

one, a well and pump company, was not interested whatsoever, and McMahon was there for us, and it's unfair to intimate that anything other than sincerity was involved in this selection process because many long hours have gone into this, and we have tried to pursue all avenues and be faithful to notification of the homeowners, and we have two pages of community outreach dates which I have provided in the packets I sent you as well as other officials, and I can send that again if necessary.

MS. NEWLON: I still have what you sent me in the file. I've received comments, you know, for months on this. Yes, sir?

MR. LEVIN: Susan said that she received --

MS. EVOLDI: My name is Suzanne, Mr. Levin, Suzanne, not Susan.

MR. LEVIN: Suzanne said that she had five other bids, but none of those bids were ever presented to the homeowners.

AUDIENCE MEMBER: She didn't say bids, Ed, she said --

MS. EVOLDI: I contacted five separate engineering firms. Four were not interested. You can't make people serve you if they don't want to.

MR. GHIDOTTI: Let me just comment a little bit from what I know and my experience in working with this and working with Mr. Radtke. Unfortunately -- McMahon & Associates unfortunately are not getting as fair a play here as they should. When you go into an area that you're unfamiliar with, you want to work with the best people that you can and the people that are going to help you and the people that know the territory and the people that can get the job done, and this is one reason why we went with McMahon because he's the person -- that company, this is what they do for a living, okay, they're the experts, and when you're a small group such as we are, you want to work with the experts that can get the job done.

And as Gary I think would agree, the committee did not just give him, you know, to do whatever. There were many times when we went back and forth and back and forth and argued, et cetera, et cetera in order to keep the costs down, and one of the reasons why we went with the contract with Lake Dale, one of the reasons was to keep the costs down for our residents, okay?

And there were times, you know, when we had a lot of arguments about this, and so just to say, you

know, the committee did look at many different options, we did look at ways to try to keep the costs down, and we went with the people that were the experts in the field and that were willing to come in without any guarantee of getting paid for the project, and they worked with us now for the last 18 months.

MR. LEVIN: I'm going to have to take exception again to what Mr. Ghidotti says, these folks have a wonderful way of putting their own spin on a situation. The situation wasn't that they wanted to go along with that split. They were totally against it and they were very frantic about it. That was instituted strictly through Mr. Blennin (phonetic) because figures came in from Lake Dale Regional Waste where he saw a situation going between, and he thought that would be a good way to settle it. He might have been right, time will tell, but they did not initiate it.

MS. NEWLON: Any other comments, questions? We have engineers here. We have maps up here of the area of the district. It is a proposed water district.

Yes?

MS. CSEPIGA: What's the deadline for written comments?

MS. NEWLON: December 31st this year, 1998.

MS. CSEPIGA: When will IDEM make a decision?

MS. NEWLON: Well, at that point in time a review of all the testimony that's been given, all the comments will come in, a summary will be prepared, probably at that point a decision will be made, then it will go back up to the Office of Legal Counsel for their blessing, and then we go for signatures if that's the recommendation of IDEM.

MS. CSEPIGA: Can you project a time? Spring?

MS. NEWLON: Yes, spring sounds good. It will probably be February or March before a final decision, and once the Commissioner of IDEM does sign the recommended order, and it's 33 days from signature, then it would become an official district. There's an appeal process. Everybody that received notice of the meeting tonight will also receive notice of the decision once it's been made, and an explanation on if one wants to appeal it is on that notice.

I am a person overseeing this. I have a tollfree number. I have voice mail. I'm not always in the office, but I do return my calls, and if I can help clear up anything, feel free to give me a call. I do

encourage comments.

MR. RADTKE: Gary Radtke from McMahon, do you think there's a real strong possibility we can get in -- if everything goes good, we can get in construction this summer and get this water thing? I know not everybody wants that to happen, but there's a lot of people concerned with that trying to get the water changed by the fall. Do you think that's really a possibility?

MS. NEWLON: Well, a lot of times a lot of things can kind of be going at the same time. Even though, you know, we have to go through the official process and meet the statutes regarding formation of a district, I think preliminary things can be moving along as well. To answer your question, I'm not really -- you know, I don't know what all is involved to get going, but I think a lot of times they'll go parallel.

MR. LEVIN: I have only one more thing to say, my arm is getting tired, if the final result is the type of utility rights that are really acceptable, then everything is forgiven, okay?

MS. NEWLON: Our court reporter has recorded that.

Any other questions before I close?

Thank you for coming.

(Which were all the proceedings in the above-entitled matter.)

C E R T I F I C A T E

I, Susan M. Pudlo, C.S.R., R.P.R., a Notary Public within and for the County of Lake, State of Indiana, do hereby certify that I reported in shorthand the proceedings had at the hearing of said cause, and that the foregoing is a true and correct transcript of my shorthand notes so taken as aforesaid.

Dated at Hammond, Indiana, this 11th day of January, 1999.

Susan M. Pudlo
Susan M. Pudlo
Certified Shorthand Reporter

My commission expires:
December 27, 2000.

County of Residence: Lake

LAWYER'S NOTES

OFFICE OF WATER MANAGEMENT
JAN 19 11 40 AM '99

PAGE	LINE	

REPORTERS PAPER & MFG. CO., LOUISVILLE, KY.