

Cost of drainage dispute keeps soaring

Written by MARK JAEGER

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Northern Ozaukee School District lawsuit against neighbor delayed to January; bill nears \$100,000

The saga of the lawsuit by the Northern Ozaukee School District against Kendall and Carla Thistle has taken another twist, with a scheduled trial date postponed until January.

The civil suit was tentatively scheduled to go before Ozaukee County Circuit Court Judge Paul Malloy this week.

The delay will likely add to the mounting legal cost of what started as a simple property dispute involving stormwater runoff.

At this point, school district officials say they have paid more than \$97,000 in legal bills in the case.

Complicating the matter, Kendall Thistle is a longtime member of the School Board.

The problem dates to 2007, when the Thistles built an earthen berm on their property, which is immediately north of the district's combined campus. The berm was intended to protect the family's property from stormwater flowing off the Village Green subdivision.

The berm was reportedly approved by the county and state, but created a one-acre pond on school district land. School officials paid \$8,300 to have the water drained.

Attempts to get the Thistles and the subdivision developer, Regency Hills Mastercraft, to pay that bill failed. Then the developer went bankrupt.

In February 2011, the district filed suit against the Thistles, seeking reimbursement for the drainage work and removal of the family's berm.

Since the suit was filed, Kendall Thistle has made a point of frequently noting the rising cost of the legal matter at School Board meetings.

Thistle has abstained from votes on the legal issue.

Three years ago, the district sought a legal opinion from its attorney, John Haase, on the rationale of seeking a legal settlement of the matter. At that time, the legal bills amounted to just \$35,000.

"Although one can never predict the outcome of litigation, the district's case to recover its costs appears fairly strong," Haase wrote.

"However, the expenses of litigating the claim could be quite high relative to the potential recovery."

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Although the matter predated his arrival at the district, Supt. Blake Peuse said the attention the case has drawn has created a lot of criticism in the community.

“I feel the district has been placed at a disadvantaged position, because we are willing to wait and let the legal system run its course,” Peuse said this week.

“We have been as forthcoming as possible in this matter. We don’t want to taint the potential jury pool by making a spectacle of this matter.”