



MEMO

Engineering Department

To: Board of Public Works
From: John Neumeier, Director of Public Works/City Engineer
Date: 07/20/2026
Re: Vandenbroek Legal Drainage District Maintenance

Background information:

The City property owners along a drainage ditch on the NW part of the City are part of the Vandenbroek Legal Drainage District. *Per Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) Drainage districts are local governmental entities organized under a county drainage board for the primary purpose of draining lands for agriculture. A drainage district establishes a legal mechanism for managing drains and related facilities to ensure reliable drainage. Landowners who benefit from drainage must pay assessments to cover the cost of constructing, maintaining, and repairing district drains.*

One development area is greatly impacted back the requirements of the Drainage District. In the NW area of the City, Wildenberg Estates IV plat and more specifically homes along Haen Drive and Alyssa Street have limited yards available for anything other than open grassy area. Typically, within 75' of the legal drain(ditch) and in this case a reduced setback of 50'; *"the property can be used for a mowed grass area with no permanent structures or alterations. Items and uses not allowed include, but are not limited to: cultivation of crops, fruits or vegetables, the dumping or depositing of waste, compost, or materials of any kind; landscaping materials (i.e. stones, raised gardens), concrete, structures, fences, trees, shrubs, patio furniture, swings, landscaping items. No storage of vehicles, equipment, materials or personal property for kind and constructing, erecting or moving any building or structure within the drainage easement will not be allowed."*

We are proposing to evaluate the municipality accepting part of the drain and would bring a recommendation to Plan Commission, Board of Public Works, and Common Council. The City, Village and Town would request transfer of the legal drain(ditch) to our maintenance jurisdictions. The process is outlined in Wis State Statute 88.83, and directed to sub(4). See attached.

Staff and City Attorney would evaluate and prepare resolution based on discussions at this meeting and would send similar information to Village of Little Chute and Town of Vandenbroek for consideration.

Strategic Plan:

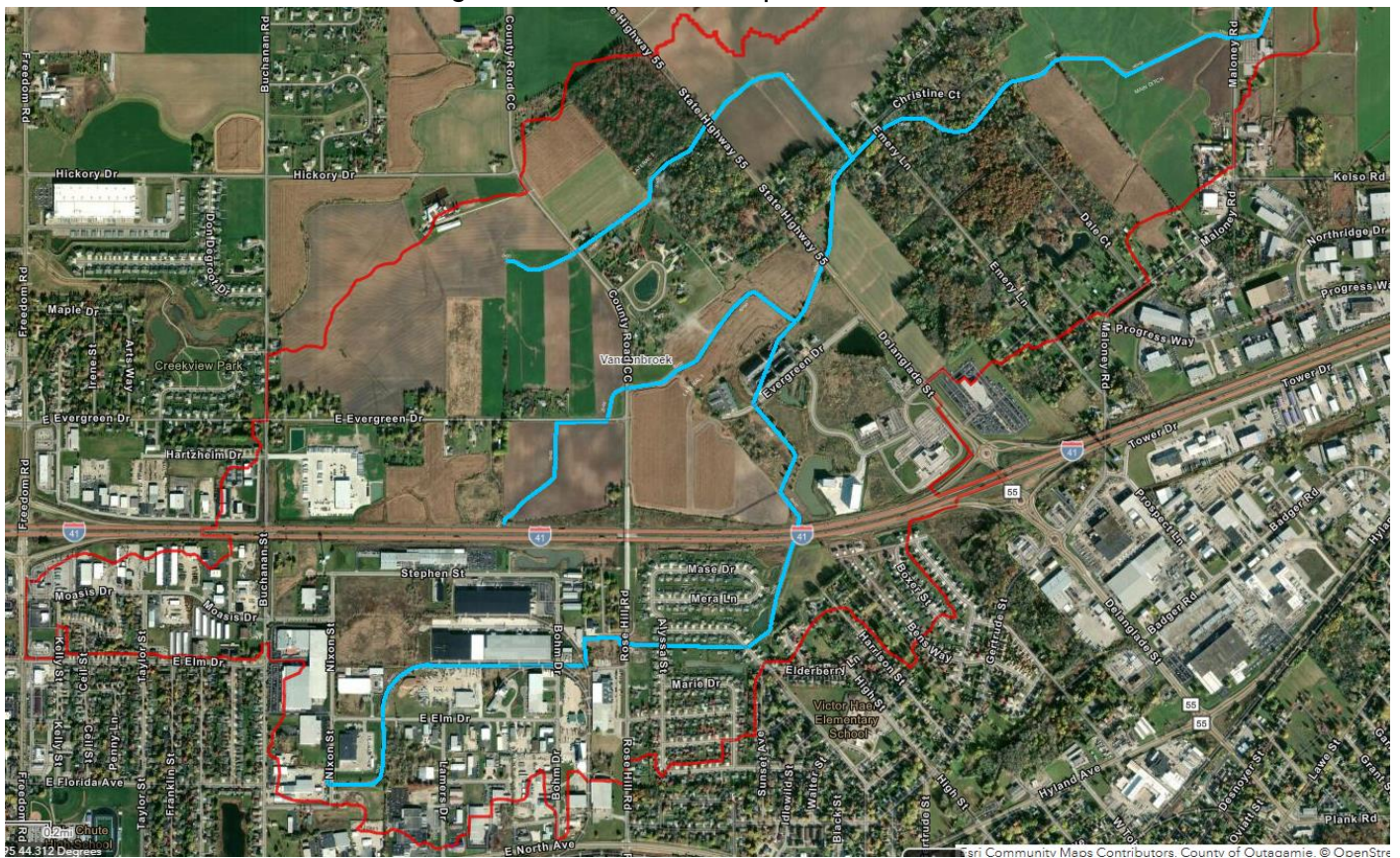
To continue providing a high quality of life through service, staff looks at ways to provide service to residents that can enhance their property use.

Budget:
TBD

Staff Recommended Action:

Direct staff to evaluate accepting the legal drain as described and come back with a recommendation.

Vandenbroek Drainage District Overview Map:



- Red Line is the Vandenbroek Legal District Boundary
- Blue Lines are "Legal Drains" in the Vandenbroek Drainage District

88.83 Transfer of district to municipal jurisdiction.

(1c) In this section, “municipality” means a city, village, or town.

(1g) The owners of a majority of the land proposed to be transferred in a drainage district located entirely or partially within the corporate limits of a municipality may petition the drainage board having jurisdiction of the district to transfer jurisdiction of the part of the district proposed to be transferred that is located within the municipality to the municipality.

(2) Upon receiving a petition under this section the drainage board shall fix the time and place of the hearing on the petition and shall cause notice of the hearing to be given under s. [88.05 \(2\) \(b\)](#) to the persons specified in s. [88.05 \(4\) \(b\)](#).

(2m) If the proposed transfer of jurisdiction is of less than the entire district, jurisdiction of the part of the drainage district may not be transferred to a municipality unless the municipality to which jurisdiction will be transferred and the district have entered into an agreement that includes all of the following:

(a) The municipality and district agree that the goal of the agreement is to outline the duties and responsibilities of the respective parties to maintain the drain system as provided in the plans and specification for the drain system approved by the department of agriculture, trade and consumer protection.

(b) The agreement specifies any monetary obligations of the municipality or district under the agreement and the manner by which any monetary obligation under the agreement will be calculated.

(c) The municipality agrees to ensure access to, and maintenance of, any corridor established under s. [88.74 \(1\)](#) that is located on land transferred under this section consistent with the requirements of s. [88.74](#).

(d) The municipality agrees, upon order by the drainage district from which jurisdiction was transferred, to maintain and repair any part of a former district drain located in land transferred under this section.

(e) That if the municipality fails to complete work ordered under par. [\(d\)](#), the district may complete the work and assess costs on the confirmed benefits to property located in the municipality, as follows:

1. The district shall provide notice to the municipality that, based upon an inspection by the board, maintenance of a drain on land transferred under this section is necessary.

2. If the municipality does not within 30 days of receiving the notice under subd. [1](#), enter into an agreement with the district to perform the maintenance or does not perform the ordered maintenance within 12 months of receiving the notice under subd. [1](#), the district may file a declaratory judgment action in the court having jurisdiction over the district. The only issues in an action under this subdivision shall be compliance with this paragraph and whether the lands proposed to be assessed are benefited by the drain.

3.

a. If the court determines that the district has complied with this paragraph and that the lands proposed to be assessed are benefited by the drain, the district may complete the work and assess costs to the municipality.

- b. If the court determines that the district has not complied with this paragraph or that the lands proposed to be assessed are not benefited by the work, the district may complete the work, but may not assess costs to the municipality.
- (3) If the drainage board finds upon the hearing that the petition is signed by the required number of owners and that the conditions under sub. (2m) have been satisfied, it may issue an order transferring jurisdiction of the district or part of the district to the municipality. If the order transfers jurisdiction of the entire district and the governing body of the municipality approves the transfer, the drainage district shall cease to exist as a district under this chapter and shall automatically come under the jurisdiction of the governing body of the municipality in which the district is located. If the order transfers jurisdiction of only a part of the district and the governing body of the municipality approves the transfer, the section transferred shall automatically come under the jurisdiction of the governing body of the municipality in which the district is located.
- (4) As an alternative, proceedings covered by this section may be initiated by a resolution of the governing body of a municipality. The resolution shall state that the municipality is willing to accept the drain or part of the drain, and that the public interest requires that the municipality take over the operation of the drain or part of the drain. The resolution shall be published as a class 1 notice under ch. 985. The municipality may petition the drainage board having jurisdiction of the drain to issue an order transferring jurisdiction of the district or part of the district to the municipality. The drainage board may not hold a hearing on the petition until 30 days after the date of publication of the notice. A copy of the petition and resolution shall be served on the county clerk of the county in which the drain is located and the board having jurisdiction of the drain. If the drainage board finds upon the hearing that the conditions under sub. (2m) have been met, the drainage board may issue an order transferring jurisdiction of the drain or part of the drain to the municipality. If the order transfers jurisdiction of the entire district, the drainage district shall cease to exist as a district under this chapter and shall automatically come under the jurisdiction of the governing body of the municipality in which the district is located. If the order transfers jurisdiction of only a part of the district, the section transferred shall automatically come under the jurisdiction of the governing body of the municipality in which the district is located.
- (5) Upon entry of an order transferring jurisdiction of an entire district to a municipality and approval of the transfer by the municipality, the county treasurer and district shall pay to the treasurer of the municipality all moneys in the county treasurer's or district's hands which belong to the drainage district. Upon entry of an order transferring jurisdiction of a part of a district to a municipality and approval of the transfer by the municipality, the county treasurer and district shall pay to the treasurer of the municipality a proportional share of the moneys in the county treasurer's or district's hands which belong to the drainage district based upon assessed benefits transferred less a proportional share of outstanding indebtedness.

History: 1979 c. 110 s. 60 (11); 1991 a. 316; 1993 a. 456; 2017 a. 115.