

DEKALB COUNTY COMMISSIONERS' MEETING

January 3, 2025

Commissioners Present: President William L Hartman
Vice President James Miller
Vice President Kellen Dooley

Others Present: Auditor Susan Sleeper
Attorney Donald Stuckey

MATTER OF REORGANIZATION

Auditor Sleeper opened nominations for President:

Kellen Dooley motioned to nominate William Hartman as President. James Miller seconded. Auditor Sleeper closed nominations and called for vote with the motion passing unanimously.

James Miller and Kellen Dooley will both be Vice- Presidents.

MATTER OF PUBLIC HEARING ON ST. JOE/SPENCERVILLE SEWER DISTRICT RATE INCREASE PETITION

Opened hearing at 9:31

Petitioner Attorney | Andrew Kruse: Attorney Kruse, representing the district presented the rate increase ordinance that was passed by the District on November 14, 2024 as evidence, and went over the logistics of the increase and petition at hand. There is a requirement in 13-26-11-15 that notice be sent within 7 days of adoption and includes notice of taxpayers' rights to appeal, the notice went out 8 days after the hearing instead of 7 and the notice also did NOT include the notice to appeal. Attorney Kruse is requesting that the requirement be waived as there was an appeal petition filed and by not moving forward with the hearing as posted there is a possibility of losing out on funding that has already been secured.

Witness | Ben Adams & Natalie Shown: Commonwealth Engineers: Ben is a senior member of the firm and has been involved in sewer districts over the course of his tenure, including Allen County and Adams County both for over 10 years. In the current condition the plant has already exceeded its useful life at over 30 years, when usually they only last 20-25 years. If the tank fails, they will have to pump sewage and take it to another facility at a very costly expense. The point of the project was to replace the tankage so the plant can continue to operate. Attorney Kruse submitted a copy of the Preliminary Engineer's Report as evidence. Once the Preliminary report was submitted, the County, with the help of Kleinpeter Consulting applied for OCRA grants and was awarded \$700,000. The initial bid that went out had 4 bidders with the bids coming in higher than anticipated therefore the project was rebid and only had 2 bidders the second time. Ben feels the costs of labor, steel, concrete and other materials had substantially increased and that was not considered the second time the project was bid as well as the vendors were being asked to construct new tanks and keep the old tanks online at the same time and he feels the companies had included that risk into their bids.

Witness | Greg Guerrettaz, via Teams: FSG president of Financial Solutions Group that has worked with St. Joe/Spencerville for well over 25 years. Greg discussed his educational qualifications. Greg feels the important piece is that he worked with the district and put in an interim rate and has used the same methodology of figuring the rate over the past 25 years. Greg said that they had met with the 3 large companies that would see the largest increase due to the rates and those companies that needed the sewer facility to see if they would sign a 25-year contract to not leave the area and the companies said 'no'. Attorney Kruse asked if the SRF funding could be longer than a 20-year term, and once everything was discussed the longest term agreed on was 23 years. Greg then discussed the different 'classes' in his report and how the rates were spread over everyone involved. FSG feels the district should not go for 25 years without a rate review and get on a bi-annual review. Kellen Dooley clarified with Greg what the 'collection system' is and in Greg's mind he is talking about when the waste leaves the homeowner to plant, so all the pipes/lines under the ground.

Witness | Mike Kleinpeter, via Teams: Kleinpeter Consulting Group the OCRA grant administrator with over 10 years of involvement in grant funding. In February 2024 OCRA awarded \$700,000 and when the bids came back high, they went back to OCRA to seek the additional \$50,000 that OCRA had opened up on their available funding and that was applied for and also awarded. There is a release of funds deadline that was December 31, 2024, making DeKalb County on the overdue list with OCRA which means that DeKalb County can not apply for any other OCRA funding until this loan is closed. William Hartman asked if the project would go into prevailing wage with the OCRA funding and it will, however the SRF funding also requires the prevailing wage.

Witness | Ben Adams: The prevailing wage is not an issue in this situation, as the Davis Bacon wage rates are a requirement for both OCRA and SRF and was known from the beginning of the project. The bid expiration is January 8, 2025, but Ben has emails that the bidders will hold their rate for an additional 30 days. If the next deadline is missed, the bids would expire, and they could ask for an additional extension or re-bid the project. Opposing Attorney, Hawk questioned if there were dates that were missing info and there was, however that doesn't mean there wasn't information available it just hadn't been entered by the facility and may not have been required.

Witness | Todd Sattison: Certified operator for Regional Sewer District discussed the new zinc requirements that are coming. Todd explained that currently they were a report only facility, but with the new requirements they have to meet a zinc requirement and have a compliance plan in order to meet that requirement. The current equipment can meet the requirement for the zinc limits for most of the year except for the cold months.

Opposing Attorney Michael Hawk: Attorney for Nucor and Vulcraft Feels they do not have a valid ordinance due to the notification deadline being missed by 1 day and also did not have equitable shared rates. Mr. Hawk read the statute language and focused on the 'shall' and 'must' verbiage in order to have a valid ordinance, therefore they feel the ordinance be defeated.

Witness | Jamie Worman, Division Controller at Nucor-Vulcraft. Jamie receives all the bills and communications from the St. Joe/Spencerville Sewer District. Jamie first received notice of

the intent of a rate increase in December of 2023. The meeting was held and discussed the proposals of the rates and about the sewer treatment plan, and it was requested they participate in the treatment plans project or have increased rates. Nucor had offered steel products to the district to help with the project but would not give \$3 million dollars to pay for the project. Jamie said on November 7, 2024, the district asked if Nucor was going to pack up and leave, to which she replied that there were no plans, but a new general manager may have different plans that she would not be aware of. Jamie also asked the district what would happen if they did leave, and they responded with 'I guess we will figure out a way to pump it to Auburn'. Kellen asked who was on the phone call and she is not certain on names but knows a few from the engineering company and Kleinpeter.

Witness | Dean Marks, Nucor Fastener, Division Controller. Dean receives all the bills and communications from the St. Joe/Spencerville Sewer District. Dean was in Commissioners chamber today and heard Jamie Worman's testimony and agrees with all her answers. Dean made a call to Robin McCann offering steel help, and she sent an email to Ben Adams and Chris Harrison that anything would help but may be difficult to get that into the bid documents. Kellen asked Dean how much steel they offered, and Dean responded that they had asked for a list of what was needed and would decide after review.

Witness | Mark Armendola, Armendola Engineering was engaged by Nucor to review the flow data directly from the facilities. Armendola received data from Nucor primarily and provided the summary to Nucor and Vulcraft. The industrial users are responsible for 58% of the usage from the district. Armendola said there were data entry errors for Nucor and Rhinehart and also assumed that there was a daily discharge which is not the case. Armendola feels the districts rate spreadsheet is high when he compares it to Nucor and that the total industrial percentage would be between 42-48%.

Witness | Katelynn Shaffer, Reedy Financial group: Senior Manager over Utilities. Katelynn was present for the prior testimonies and is familiar with documents that have been presented so far. She explained that initially they reviewed the 2023 and 2024 rate studies and the large project cost increase. She feels Rural Development has the capacity to offer longer term loans and has the possibility of grants as well. Katelynn explained the equivalency factors in relation to homeowners up to industrial classes. Regarding the rural development funding, Attorney Kruse asked if there was any delays in funding or if there is accurate funding available, and she is not aware.

Ben Adams (rebut witness): Attorney Kruse asked if Ben heard Dean Marks testimony on free steel and asked if Ben is aware of the offer. Ben is aware and expressed that it would have been difficult to get them into the bid documents. Ben is familiar with Rural Development funding, and it comes from the federal government, and he has heard that it is at least 2 years before being able to receive adequate funding, therefore SRF funding was more readily available.

Greg Guerrettaz (rebut witness): Attorney Kruse asked on the differences of the rate studies. The initial was based on the flow across all customers, whereas the 2nd study was based off of the amount of flow. The historical flow was requested by the industrial companies, and it was provided. An equivalent factor was given for Class 1 and 2, but not class 3, which is because

you never use an equivalent factor to a large industry it is always based on specific flow to total flow according to Greg. Attorney Hawk asked if Greg heard Ben say there was information missing in the districts report. Greg does not recall Ben saying that but there is always data missing in over 5 years of data which would help with anomalies. Hawk states there were months missing not just dates. Greg stated they went with the date given by Commonwealth Engineers.

Ben Adams: Kellen asked how the data was obtained, and Ben said that they use a virtual file cabinet that data is entered into.

Mark Armendola: Kellen asked what dates he used, which was from January 2019 to November 2024 that was provided by Nucor. Mark also has data from districts separated from Nucor, Vulcraft, Rhinehart as well as district data that is missing months of data and clearly wrong entries in their spreadsheet data.

Katelynn Shaffer: James Miller asked for clarification on the rate factors with residential being class 1 used at a rate of 1, small business is class 2 used at a 1.5 – Katelynn said there were a variety of rates used. Kellen asked what the industry standard rates would be, and Katelynn said they can go anywhere from 1.5 to 5. James Miller asked what large industry could be and she said anywhere from 50-80 or more depending on the size. Kellen confirmed that Greg used flow rates vs. equivalency rates.

Cliff Hall: falls into category 2 in Spencerville, he lives in Butler. His parents passed away and he uses their house as an office for himself. He feels a survey should have been sent out as he knows of other houses that have multiple people living in the home and using a lot more than what he would as a small business and that it is not a fair rate distribution.

Randy Drake: Town of St. Joe, began with saying that all 3 businesses are great for the community and have been a great asset to the community and wanted to say that one reason he didn't sign the petition is because no matter what isn't paid by the companies will fall back on the small businesses. He does not understand why the sewer district did not go for fixing one tank instead of doing both at the same time. Whatever the large industries do not pay will hurt the Town of St. Joe, with at least one business going out.

Jeff Studebaker: a former board member, remembers the Sewer Board came at least 20 years ago and asked for water meters to be installed. Nucor and Vulcraft both had come to the board on getting water to the factories and the Town knew their water system couldn't handle the increase, and it was cheaper for the industries to put in their own wells. Jeff wants to know why the sewer district even added on the industries to their already failing system to begin with.

Phil Rhinehart: Rhinehart Finishing has been in Spencerville since 1950, they came to Spencerville to be away from a big city for one reason, because that is what his father wanted to do because if there was ever a war or threat in Allen County the bombs and catastrophe would not hit Spencerville and his company would survive. With the new rates, Rhinehart will pay upwards of \$1.8 million dollars over 20-25 years. He does not understand why the district did not step up years ago to get some extra money to help be able to fix things like this. He feels the

past boards have left the rate the same because nobody wanted to make anyone mad. He also wants to know where everyone was from the County to advise and help with these rates, he thought that when they paid their taxes the County was to take care of them. He said they have all the data so when others have stated the data is missing it is not accurate.

Elwood Simcox: International consultant, Navy retiree. He is addressing the 'District Authority' as noticed on the Public Hearing. He feels they are the forgotten stepchild of DeKalb County. He said that he has reviewed Commissioners minutes and there has been only 1 time that St. Joe/Spencerville Sewer District was mentioned in the minutes as having had a discussion with the Commissioner.

Attorney Donald Stuckey explained the County Commissioners role in the matter. He explained the Commissioners have no authority over the sewer board, they set one appointment, they cannot set rates, none of that. When the district wants to increase the rate over 5% then a remonstrance period is available, and that petition is the only thing the County Commissioners have any involvement in concerning the Sewer District. The Commissioners decide today two things:

- 1) whether the ordinance increasing the rates followed Indiana code, and
- 2) if the rates are just and equitable

Randy Drake: of all those he talked to, nobody received a notice

Elwood Simcox: states that it is illegal to operate a regional sewer knowing you do not have enough funds to support it, Attorney Stuckey responded with 'that is why we are here'.

James Miller: Started with saying that both he and Kellen started their jobs on January 1st and does not feel that they can take blame for what has happened in St. Joe as they were not on the board. Mr. Miller asked Mr. Stuckey if the board followed the Indiana code. Mr. Stuckey has always understood that 'shall' and 'must' as mandatory language. Mr. Stuckey had provided the statutes and now the Commissioners must decide if they feel it has been met, at this time the only thing he is aware of is the notice went out one day late and the required notice was not included.

William Hartman: has some ideas on the bidding process but is not sure if he should interject them at this time. Attorney Stuckey said he is the chairman and can discuss it when he chooses to. Mr. Hartman has knowledge of another bid that was withdrawn because it was so much lower than the others and he was skeptical about getting bonded for the job. Mr. Hartman also mentioned that the County just did the new Highway project with a BOT system and that would get rid of the prevailing wage component, and he also feels they should bid out different components not as one big project. Mr. Hartman believes there could be a lot of money saved. He spoke with another person and found out that with the prevailing wage component there are apprentices that are making more than the supervisors therefore companies have to give the supervisors bonuses to keep their wage above those they are supervising.

Kellen Dooley: appreciates that the current board is trying to fix what the board hasn't done for the past 25 years.

Did the Board of Trustees of the District in adopting the ordinance increasing sewer rates and changes, followed the procedure required by IC 13-26-11-15?

Dooley: believes they did the best to their abilities, but did not follow procedures, No.

Miller: No, as serving on school board the law must be followed, but a day late doesn't cut it, and he would really hope going forward the Sewer District has more communication with the residents living there.

Hartman: No, feels the project needs to be revisited and get the price down

Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of IC 13-26-11-15?

Dooley: Yes, He does find the rates are just and equitable at the current project bid, and knows the rates are high but if funds are not provided the plant collapses, if project bid lowers than the rates would need to be adjusted to that bid.

Miller: Yes, as presented the rates are just and equitable, he just does not know how there was not meters on houses and businesses to know the exact data

Hartman: No, due to the fact there is such a discrepancy in the rate increase, he does not feel the rate is equitable but feels the bid process was flawed to some degree and needs to go back to the beginning.


Question 1:

3 No

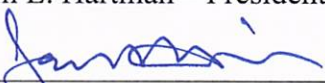
Question 2:

2 Yes, 1 No

Hearing closed at 12:27 p.m.



William L. Hartman – President

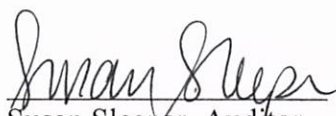


James Miller – Vice President



Kellen Dooley – Vice President

Attest:



Susan Sleeper, Auditor