

## POTENTIAL DISTRICT BOUNDARY REVISION

**Background information:** The board of commissioners was petitioned in June of 2009 by several off-water parcel owners to have their properties detached from the lake district. Such petitions have been presented sporadically over the history of the district and have typically been based on the argument that off-water parcels do not benefit from the lake and should not be subject to lake district taxes. All such petitions have been denied by the current and previous Little St. Germain Lake District Boards of Commissions on the grounds that the district boundaries were declared by resolution of the Vilas County Board of Supervisors when the district was created in 1980 and that no substantial changes to the properties in question have occurred that would justify their detachment from the district.

However, action on the petition presented in June of 2009 is still pending due to two discoveries by the board of commissioners:

1. A WI Supreme Court ruling in 2004 overturned a lower court decision that had supported a lake district's action to deny a detachment petition. That precedent setting case established new standards for lake districts to use when determining the benefit to properties of being in a district.  
(See <http://www.wisbar.org/res/sup/2004p/01-3396.pdf> for details of the case)
2. The Little St. Germain Lake District boundaries as established by the Vilas County Board in 1980 presently encompass 172 off-water parcels. A review of those parcels on Vilas County tax records has revealed that 66 of them do not have the special district tax code for the Little St. Germain Lake District applied. Most of those 66 parcels are taxable properties, but are not sharing in lake district tax levies due to the missing tax code. When or why the tax codes were removed is a mystery, but some of the properties may not have been taxed by the lake district for many years.

Dispute exists between the Vilas County Tax Listing Office and the Little St. Germain Lake District Board of Commissioners over whose responsibility it is to maintain accurate tax coding on county tax records. Resolution of the dispute needs to be accomplished before the coding inaccuracies can be corrected.

These discoveries present complications for how to respond to the pending detachment petitions:

- A. Applying the missing tax codes to the 66 parcels would likely prompt many more petitions for detachment, all of which need to be evaluated on a property by property basis. Considering the findings of the Supreme Court in 2004, the district would not be in a strong position to deny all such petitions.
- B. Voluntary removal of all off-water parcels (except those with riparian rights) would resolve the petitions and tax code issue, but would increase the district's annual mil rate for properties remaining in the district.
  - a. Since many of the off-water parcels are undeveloped and have substantially lower values than developed waterfront property, the mil rate impact would be only a few cents per \$1,000 of valuation with a \$75,000 levy.
  - b. This course of action would require re-defining the district boundaries. Unfortunately, Chapter 33 of WI Statutes is unclear regarding what constitutes a property description of lake district boundaries.

- i. A legal description following parcel lines of waterfront properties plus including off-water parcels with riparian rights would be very lengthy, difficult to read and expensive to develop.
- ii. A simple description such as, **“All present and future land parcels, any portion of which border the ordinary high water mark of the lake, and all parcels not bordering the lake but having riparian rights, shall be regarded as within the territory of the Little St. Germain Lake Protection & Rehabilitation District”** may not satisfy the description requirements of Chapter 33.

The Board of Commissioners is seeking public bids for development of a revised boundaries description that would satisfy statutory requirements.

#### **2009 Annual Meeting Considerations:**

1. Revising district boundaries to include only waterfront properties and off-water parcels with riparian rights.
2. Challenging the Vilas County Tax Listing Office position that maintenance of lake district tax codes on county tax records is the responsibility of lake districts, not the Tax Lister.