

Background Material for Discussion of the Ponds in Winslow Farm

by Gary Wiggins

(1/8/2019; revised 2/7/2019,6/17/2019, 6/11/2020)

The ponds have been an area of concern in Winslow Farm for a long time, resulting in the appointments of at least two study committees in the last 10 years. (1) In 2018 the present Pond Committee was created by the Winslow Farm Community Association (WFCA) Board. (2)

Although I am a member of both the Pond Committee and the WFCA Board, I compiled this document not as an official statement of either. Rather, it is my own selection of facts that I feel are important for all Winslow Farm residents and homeowners to know before deciding on a reasonable long-term solution to remediate the sad state to which the ponds have deteriorated in recent years.

How Did the Ponds Get This Way?

A longtime resident of Winslow Farm commented to me in October 2018 that, “Animosity has existed over the water features for as long as I remember. MC & MCV don't think we do enough, and the rest of the community think we do too much. There is real anger on both sides.”

The natural thing that happens with ponds and lakes is that they fill in with silt and muck over time. All retention ponds need to be dredged and treated for algae and invasive plant and animal species periodically. If left alone, they will eventually turn into wetlands, and certain of our ponds, notably 3, 4, and 5, are well on their way to that end.

To restore the ponds to their original condition and keep them that way would be a very expensive proposition. The cost to renovate the smaller ponds 1 and 2 during 2015 and 2016 was approximately \$100,000, a substantial portion of the more than a quarter million dollars that was spent on the ponds over the 11 years between January 1, 2008 and December 31, 2018. As of the start of its 2019 fiscal year (January 1, 2019), the Winslow Farm Community Association (WFCA) had approximately \$80,000 in reserve funds to deal with expenses associated with all 50 common areas under its control. ([Appendix 1](#))

Mr. Caleb Asbury, who wrote the 2018 Davey Resource Group's Winslow Farm *Pond System Management Plan* ([Appendix 2](#)), obtained an estimate of \$15,000 to complete a dredge plan for ponds 3-5 and a cost range of \$200,000-\$350,000 to dredge, re-line, and perform shoreline restoration within ponds 3-5.

Everyone who has lived in Winslow Farm for 10 years or more knows that the ponds are not as attractive as they were in past decades. It is instructive to ponder why a well-conceived plan for pond maintenance drafted in 2008 was not followed. ([Appendix 3](#)) That was undoubtedly due to a lack of funds, not a conscious desire on anyone's part to see the ponds reach this state of disrepair.

The Need to Raise Additional Money to Remediate the Pond Areas at Winslow Farm

With enough funds in the WFCA bank accounts, *any* option to improve the areas occupied by the ponds is viable. However, at their current rate of growth, WFCA dues do not allow a broad spectrum of choices for improvement of the pond areas. The WFCA dues in 2007 were \$150 per homeowner. In 2018, they were \$165, a 10 percent net increase over 12 years. The dues for 2019 were raised to \$175, but the resulting \$72,975 of income will be stretched to cover maintenance of the 50 common areas owned by WFCA and other necessary expenses. That leaves relatively little (\$15,000) to devote to pond maintenance or improvement in 2019, as the budget adopted by the homeowners at the WFCA annual meeting in October 2018 shows.

[\(Appendix 4\)](#)

As stated in the Davey plan, ponds 1-6 were included in the initial construction at Winslow Farm to increase property values and improve esthetics throughout Moss Creek and Moss Creek Village. Original lots for those who bought property bordering the ponds cost \$5,000 more than other lots. It is generally thought that a home with a water view is more expensive than a comparable house without such a view, so there may understandably be some concern among those nearest the ponds if there is any talk of eliminating certain of the ponds over the long term.

There is a feeling among some Winslow Farm residents—even within the patio home communities in Moss Creek and Moss Creek Village—that the neighbors who live closer to the ponds should pay more for their upkeep. However, Bayberry, Moss Creek (MC), and Moss Creek Village (MCV) homeowners already pay substantial monthly fees for upkeep of their property and common areas, and the annual fee for WFCA dues is on top of that. The farther away from the ponds you live, the less appealing is the prospect of higher annual fees or special assessments to support pond maintenance.

Significant additional funds must be found if any meaningful improvement to the pond areas is to occur in the next decade. Given the amount of money that will be required to make substantial headway in the remediation of the pond areas, financial subsidies will be required. The possibility of obtaining grants for control of stormwater runoff should be investigated, as should other fundraising options. (3)

Who Owns What and Whose Responsibility Is It Anyway?

The physical repairs and landscape improvements needed for the pond areas are not the only factors that must be taken into consideration. Among others are boundary issues and turf disputes that must be settled before long-term solutions for the pond areas can be implemented. The Declaration of Covenants, Conditions and Restrictions of Winslow Farm by Winslow Development Company, Inc. dated September 9, 1992 deals with Ponds and Pumping Equipment in Section 8. COMMUNITY AREAS, Subsection 8.2:

The ponds and pumping equipment located within Winslow Farm are Community Areas. The Community Association shall insure, maintain, repair and replace the ponds and pumping equipment to keep the waterscapes in a first-class condition. The Community Association will apply pesticides to the ponds, if necessary, to eradicate undesirable insects and weeds using commercially accepted treatments. All costs incurred by the Community Association in discharging its duties under this Section will be a Community Expense.

In part, past disagreements about responsibilities for upkeep of the ponds and surrounding areas were predicated on conflicting statements about common areas in the original covenants of the Moss Creek, Moss Creek Village, and Winslow Farm Community Associations, wherein *each of the associations defines the ponds as being among their common areas.* (4)

In 2017, a survey was commissioned by WFCA to determine precisely the boundaries of the Moss Creek and WFCA common areas around ponds 1-4. The Deckard survey took as its starting point the legal descriptions that are included in Moss Creek documents. ([Appendix 5](#)) They marked Moss Creek's common area near the ponds and what was not marked is believed to be Winslow Farm common area by default. (5) This revealed that WFCA owns a large portion of ground around pond 4 and that much of the water area currently bordering the southeast and southwest banks of pond 3 (the areas south of the weir connecting ponds 2 and 3) and even the southern tip of pond 3 and part of the weir connecting ponds 3 and 4 are Moss Creek common areas. The areas around ponds 5, 6, and 7 were surveyed by Deckard in 2007. ([Appendix 6](#) and [Appendix 7](#)).

Jurisdictional squabbles over who is responsible for what have interfered with the proper maintenance of the ponds and the immediate areas surrounding them. In the summer of 2018, they contributed to a conditional withdrawal of a Moss Creek resident's generous offer of \$20,000 to be used for improvement of the north end of pond 3. These jurisdictional disputes must be settled as soon as possible, so that reasonable plans for improving the areas currently occupied by the ponds and safeguarding the properties of current homeowners from future catastrophic water events can be agreed upon and implemented. (6)

As I write this, a document from the Pond Committee is being considered by the WFCA Board for a common-sense delineation of maintenance responsibilities among WFCA, MC, and MCV HOAs for the common areas within Moss Creek and Moss Creek Village. I hope that will result in cooperation over the short term (at least 2 years) to improve the ponds and surrounding areas, allowing us to reach agreement on a long-range plan for the areas occupied by the ponds that may or may not include returning some or all of them to their original states or replacing some or all of them with dry creek beds. (Pond 7 is a required retention pond and must remain so.)

Before any work can be done to modify the ponds, even to dredge them, the proper permits from the US Army Corps of Engineers and/or the Indiana Department of Environmental

Management must be obtained. It is very important to realize that we cannot afford to modify all the ponds at once. We need to work with professional engineers, aquatic control experts, and landscape architects to ensure that any changes will be esthetically pleasing and account for possible erosion, adequate water retention, and appropriate drainage.

Conclusion

We must develop a cost-effective plan that will be esthetically pleasing and environmentally sound, will not negatively impact property values, and will increase the stability and safety of homes near the waterway. Protecting the value of all homeowners' property in Winslow Farm should be our number 1 priority in developing the plan for the areas of the ponds and other waterways in Winslow Farm. This goes beyond the issues centered on the ponds themselves. I believe that there is a perception outside Winslow Farm that investing in property here is not prudent due to the seemingly intractable problems that the ponds present for Winslow Farm homeowners. The final option selected to improve the pond areas must have at least some value to *all* Winslow Farm homeowners, not just those who live in the patio home communities around the ponds. It will have to be marketed and sold to the entire community. A good start would be to make it clear that all Winslow Farm residents are welcome to enjoy the natural beauty of the ponds and waterways.

Acknowledgements

Quite a few of the thoughts as well as the documents referenced in this document came from other residents of Winslow Farm. I wish to thank them for being so open and sharing with me in discussions of this very complex issue.

Notes

1. 2010 Winslow Farm Pond Committee Report.
http://hoosierpewter.com/GW/Pondreport_2010nov.pdf
2. Initial members of the committee in 2018 were Charles Steele (Laurelwood, chair), Lynn Struve (Moss Creek), Beckie Owens (Moss Creek), and Ted Boardman (Moss Creek). They were later joined by Linda Burton (Moss Creek Village). Lynn Struve resigned in August 2018, and the committee was then enlarged to include Gary Wiggins (Olde Mill) and Marcy Miller (New Bent Tree). Linda Burton resigned in November and was replaced by Sandy Martin (Moss Creek Village). Ted Boardman resigned in January 2019 and was replaced by Rhett Salisbury. Gary Wiggins became acting chair of the committee in September 2018 after the Davey Resource Group *Pond System Management Plan* was received, and he was officially named chair at the November 2018 WFCB Board meeting.
3. Some Winslow Farm residents have considerable experience in fundraising. Potential sources of grants include the following:

Green Infrastructure Funding opportunities

<https://www.epa.gov/green-infrastructure/green-infrastructure-funding-opportunities>

See also Fedcenter (<https://www.fedcenter.gov/opportunities/grants/>) for possible grants, such as:

[National Fish and Wildlife Foundation Grant Program](#)

[National Forest Foundation Community Assistance Program \(CAP\)](#)

This program is designed to promote the creation of locally based organizations or groups seeking to resolve natural resource issues through a collaborative process.

4. Although the January 29, 2015 version of the Moss Creek Village Covenants (Declarations) on the Hallmark web site omits the word “ponds” from the definition of their common area, Section 5 of the 1995 Moss Creek Village Covenants on the WFCA site includes “ponds” in the definition, as does Section 5 of the 2003 Moss Creek Covenants both on the Hallmark and WFCA websites. A 2008 MoCoTiCo title search letter underscores the difficulty of pinning down the boundaries within Moss Creek and Moss Creek Village from existing legal documents. It contains comments such as “When checking the parcel numbers on those deeds, the Monroe County GIS system and the various plats of Moss creek, a lot of confusion develops.” and “I am not sure what Winslow Farm Community really owns. . . The records are very vague and confusing.” ([Appendix 7](#))
5. The 2017 Deckard survey determined the common areas in Moss Creek that are owned by WFCA by pulling Moss Creek recorded plats to get accurate legal descriptions. The Covenants of Moss Creek (First Amendment, September 17, 1992) and Moss Creek Village (August 21, 1995) found on the WFCA website include exhibits that show the legal boundaries. Those are at the very end of the referenced documents.
6. Objections to the legality of the 2006 transfer of ownership of the ponds to WFCA continue to fester and complicate the process of finding acceptable solutions to the problems with the ponds. On November 3, 2008, the Board of Directors of WFCA received a letter from attorney Geoffrey M. Grodner on behalf of the Moss Creek and Moss Creek Village Home Owners Associations in which he threatens legal action “. . . should the Winslow Farm Community Association undertake any action in derivation of the rights of the Moss Creek Associations or the obligations of the Winslow Farm Community Association.” See the Monroe County GIS records for transfer of ownership in 2006 of [parcel 015-70120-12](#) (encompassing ponds 1-3) to WFCA from “Wininger/Stolberg Group-Moss” and of [parcel 015-70120-06](#) (encompassing ponds 4-7) to WFCA from “Moss Creek Village, LLC” (a corporation that was dissolved in 2001).

The Articles of Incorporation of Winslow Farm Community Association, Inc. (June 2, 1992) state in Article 2. Purposes and Powers, Section 2.4.3 that the Corporation has the power to “. . . acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, *sell, lease, transfer, dedicate for the public use* or otherwise

dispose of real or personal property which is titled in the name of the Corporation in connection with the affairs of the Corporation.” (*italics added for emphasis*)

7. The Winslow Farm Ponds Resource Page was created on the web to allow all homeowners to monitor current progress and explore past attempts to solve issues with the ponds, and this document is posted there.
(<http://hoosierpewter.com/GW/WFpondsindex.html>)
8. The stream running into the north end of pond 3 flows past several houses in Olde Mill. Technically, it is called an “ephemeral stream.” Most of the time it is dry, but during periods of heavy rain it fills up and runs rapidly under the bridge at the northern end of pond 3. Historically, water flow through the stream increased when the Winslow Farm subdivision was created, due to runoff from covered areas where the water could no longer be absorbed into the ground. At times of prolonged, very heavy rain, additional water flows into the stream from a karst outlet in Winslow Woods. When that occurs, the overflow from the karst system usually continues for 24-48 hours after the rain stops, gradually diminishing until the karst water level subsides. Slowing the flow of water into pond 3 to allow sediment to settle out may cause a water backup in the stream when the maximum karst flow occurs. If the pond 3 inlet cannot handle the karst system outlet volume plus the runoff, flooding will occur on the properties of homeowners along Olde Mill Court and Olde Mill Drive that border the stream. Therefore, channels under bridges must be kept open and not be blocked by limbs and other debris.

Appendices

1. WFCFA Common Area Responsibilities.
<http://hoosierpewter.com/GW/Common%20Areas%20in%20WF.pdf>
2. Davey Resource Group. *Pond System Management Plan*. (September 2018)
http://hoosierpewter.com/GW/Davey_report_final.pdf
3. Wet Pond Standards for Winslow Farm Community Association, Inc. (Draft 2008)
http://hoosierpewter.com/GW/2008%20pond%20management%20guidelines_draft.pdf
4. WFCFA 2019 Budget. <http://hoosierpewter.com/GW/2019%20WFCFA%20Budget.pdf>
5. Deckard 2017 Survey of Moss Creek Common Areas around ponds 1-4.
http://hoosierpewter.com/GW/Deckard_Survey.pdf
6. Deckard 2007 Survey of Pond 5.
<http://hoosierpewter.com/GW/Deckard%202007%20Survey-5.pdf>
7. Deckard 2007 Surveys of Ponds 6 and 7.
<http://hoosierpewter.com/GW/Deckard%202007%20Survey-6-7.pdf>
8. July 22, 2009 letter about the MoCoTiCo title search.
http://hoosierpewter.com/GW/MoCoTiCo_2008.pdf
9. *Monroe County Rain Garden Starter Guide*.
https://www.co.monroe.in.us/egov/documents/1531788419_09736.pdf

10. Megan Ploch. *Rain Gardens*: Stormwater Solutions Manual for Indiana University
Bloomington. (2015?)
<http://hoosierpewter.com/GW/Rain%20Garden%20Manual%20for%20IUB.pdf>