

**Special Meeting of the Board of Supervisors
Wednesday, February 10, 2021
EL-NA Tiling Issue**

I. 6:30pm: Cory Cochart, Town of Lincoln Chairman, called Special Meeting to order. Those in attendance: Town of Lincoln Supervisors: Jordan Nowak and Jesse Jerabek. Others in attendance: Mick Sagrillo, Don Niles, and Nick Guilette. Minutes to be written from tape recording by Town of Lincoln Clerk, Mary Ann Salmon. No agenda: subjects to be discussed are EL-NA tiling issue and Michael Best (EL-NA Farms' attorney) Notice of Claim received by email.

Chairman Cochart and Supervisor Jerabek had reviewed the Notice of Claim. Cochart stated both parties will have legal fees if pursued and will end up with possibly same result. Motion made to rescind the portion of Zoning Ordinance banning tiling while tasking future Board of Supervisors to work towards a common ground for those that do not want tiling on their land or the changing of usage of their property when others install tiling on neighboring properties (Cochart / Nowak). Motion carried 2-1; Jerabek voted NO. Cochart will work on document to rescind the portion of Zoning Ordinance banning tiling.

Supervisor Jerabek was disappointed in legal letter and had hoped to have worked it out with Lonnie Fenendael after site visit. He stated he did not have problem w/ what was done in field except for the fact that ToL Board was never approached regarding plans to tile and were not aware of project until receiving the complaint after it had been started. Petition may be made to the Town Board if a County Drainage Board does not exist per Ch. 88 of Wisconsin State Statutes. Had hoped to find a good solution for farmers while allowing neighboring residents to give their views before a decision was made by the Board. Cited DTCAP / NR151 and did not feel Town Board had required anything of EL-NA Farms exceeding DTCAP or NR151 requirements. Nothing in ToL Zoning Ordinance or Comprehensive Plan allows for tiling; both of these were approved / certified by DTCAP. Does not care to spend money on attorney fees, but feels since Notice of Claim allegations have been made on ToL Board actions, may need town attorney to review ZO against challenge. EL-NA Farms could apply for a variance or wait for revision of the ordinance. Would rather wait to rescind ordinance until after attorney review and possibly until new Town Board is elected. ToL Board is supposed to act on ordinances that are in place and feels tiling should be allowed in ToL, but property owner should come to Board first so neighbors are informed and able to voice their opinion on the tiling project. Cease and desist should be issued but no fine charged.

Supervisor Nowak did not see an issue with EL-NA tiling work and feels modern tiling should be allowed in ToL. Stated did not see need to spend thousands of dollars on attorney and possibly not get an answer on who was right.

Sagrillo gave background of origins of the ZO: premise laid out re: Livestock Citing by attorneys was incorrect; Brandon Robinson instructed ToL should not specify the farm, owner, operator, CAFO or renter involved but needs to be land specific regardless of who owns or operates. ZO states on A-1 and A-2 land a person would still not be able to install tile. Attorney's document outlines what L. Fenendael's responsibilities were, none of which he did. Could see a possible solution for situation on Owl and Cty RD P. ToL tiling ban was prior to Land & Water's 2029 recommendations: don't go into a creek, stream, or river, but go into a meadow or farmer owned wetland to dissipate the nitrogen and phosphorous. If logic of attorney's claims are followed, then anyone w/ a Livestock Citing can do whatever they please. Path out of this is a variance.

Motion made that ToL does not pursue action or fines against EL-NA Farms following verbal Cease and Desist dated 1.16.21 as ZO is under review for rescinding tiling ban and finding best solution going forward (Jerabek / Nowak). Motion carried 3-0.

Public Comment: (Niles) Stated as a member of past PC, he does not remember ban on tiling information and feels it could have been any of farmers in township, it just happened to be L. Fenendael. There should be a special effort to make sure those affected by such rules are very aware and there is a need for trust building. Also noted limited time public will have to review GWPP document. (Guilette) Reiterated public needs time to digest the GWPP and at this point it is not available on website as discussed at 2.8.21 PC meeting for those that may be affected and want to work cooperatively with the Board but doesn't see this on both sides. (Sagrillo) GWPP will be available on website this week for public. GWPP is not an ordinance, there are no financial implications and is a step in finalizing CP, reporting back to ToL residents and making recommendations not requirements. Noted difficulty in getting people to attend meetings. (Jerabek) Would like Guilette to have a copy as soon as possible and will email copy to Guilette when he receives GWPP. Feels things such as groundwater are getting better in ToL and would like to keep editorializing out of GWPP, agrees there are no rules to be enforced but are best practices recommendations. (Cochart) Feels public elects the Board to represent them and may not attend meetings since they trust officials to do the right thing for them.

7:25pm: Motion made to adjournment (Nowak / Jerabek). Motion carried.

Respectfully submitted,
Mary Ann Salmon, Town Clerk