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Kansas homeowners deal with defunct HOA and foul smelling ponds

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By Deborah Goonan, Independent American Communities

With technical assistance from city officials, homeowners in one Wichita subdivision will share costs to be rid of a foul smell from neighborhood ponds.

As reported on KAKE, the unpleasant odor is caused by a combination of stagnant water, organic debris, lawn fertilizer run off, and dying algae blooms.

The Dell was developed in the 1950s, and, at one time, had a homeowners association to adjust pond levels and operate the gates and valves along Cowskin Creek. But, many years ago, the HOA disbanded. No one took care of the creek or equipment to control water levels.

When City officials inspected the creek and ponds at The Dell, they discovered that the gates and valves are worn out and no longer function properly.

KAKE On Your Side investigates stinky neighborhood

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written by Krista Miller, Anchor, Reporter

A terrible smell coming from a local creek in West Wichita has neighbors in a bind over solutions.

The neighborhood is a little slice of heaven, right in the middle of Wichita.

“My grandma lives across the street over here and we got pretty close neighbors,” says Matt Martin.

Martin bought his house in the Dell neighborhood without ever having stepped foot inside for the views, but under the surface of the picturesque neighborhood lies a chronic problem.

“It smells like rotten eggs,” describes one neighbor.

Homeowners at The Dell learned that, even though they don’t have an HOA, the creek, ponds, and land surrounding the water are not public property, but “private” property.

Actually, to be more precise, the land parcel that contains the waterway is common property that is collectively owned, according to the original maps and plans for the community.

Therefore, the property is the responsibility of all homeowners in The Dell. That’s why the City of Wichita won’t be paying to fix the problems or to maintain the area in the future.

It stinks – pardon the pun – but all homeowners must get together and decide on the best way to fix their problem, and then share the cost.

In general, a homeowner cannot assume that a defunct HOA eliminates their financial obligation for maintaining common property. So here are a few suggestions.

Any potential home buyer should investigate who owns nearby water ways or vacant land parcels. Visit the County Records office and ask to see the official land records. If maps and early deeds are unclear, ask a real estate attorney to review the records on your behalf. In addition to identifying the owner(s) of the land, check out its zoning classification.

Don’t rely solely on your title insurance company to research land records all the way back to the original deed.

Misguided mindset?

Did you notice the remarks “it’s tough without an HOA” mindset by the KAKE reporter?

Well, that’s one point of view. Here’s another.

It’s tough when local governments burden a group of unrelated private homeowners with complex and expensive tasks such as land and pond management, storm water system maintenance, and flood prevention.

It doesn’t matter if there’s an active HOA or not.

Most of the time, homeowners don’t know what they don’t know about maintaining water flow and good water quality, let alone preventing floods.

That’s why The Dell and many thousands of other communities get stuck with difficult and expensive problems to solve after decades of poor or nonexistent maintenance.

Comparing the options

Fortunately for homeowners in The Dell, the City of Wichita is willing to provide technical assistance and guidance to help them decide on the best solution for their neighborhood.

City engineers put together a short presentation to explore four options.

The first two options would involve a complete or partial overhaul of the gate and valve system, to restore flow to one or more of the ponds. But those two options would require homeowners living next to ponds to operate the gates as needed to control water levels and prevent flooding of private property.

Not only are these two options expensive, but they also create the risk that a homeowner might not open or close the gates and valves at the right time, causing flood damage or erosion on neighboring properties.

Plus, the homeowners would have to plan to maintain or replace moving parts of the system in the future. Owners would also be wise to purchase insurance, if available, to cover costs in the event of a natural disaster, fire, or other unpredictable risks.

Let's look at the other two options: aeration of the ponds or filling in the creek and ponds to create dry detention basins.

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### 3. Aeration and Treatment

- Install aerators to provide needed oxygen = increase DO
- Install fountains to provide needed circulation = help increase DO
- Treat with products to improve biological balance
- **Employ Best Management Practices for lawn and pond maintenance**
  - ✓ Proper disposal of grass clippings and yard waste
  - ✓ Rake and dispose of leaves
  - ✓ Careful application of lawn fertilizer

### Challenges

- Individual vs collaborative efforts could cause variable results
- Expense



Aeration appears to be the least expensive option. But it's important to understand that pumps and fountains wear out every several years, and need to be replaced. They also require a power source to keep them running continuously, and homeowners would end up paying the electric bills.

Who will treat the ponds with chemicals? Chances are, neighbors would have to pay a lake or pond maintenance service for this task, also adding to maintenance costs. And if homeowners don't cooperate by keeping leaves and grass clippings out of the water, they'll need to pay for occasional raking or dredging to remove built-up debris.

Some homeowners may worry about environmental contamination from application of chemicals, especially if not applied carefully.

# Improvement Options

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## 4. Create Dry Detention

- Fill-in ponds with soil, to 1-foot above groundwater level
- Would eliminate standing/stagnant water
- Most effective at eliminating odors
- Just above groundwater would maintain flood detention

## Challenges

- Individual vs collaborative efforts
- USACE and KDA-DWR permits required
- Expense



Dry detention requires significant up-front costs, because contractors would have to haul in a lot of dirt to fill in the creek and ponds. To prevent erosion, the infilled areas would have to be planted with grass or other suitable ground covers.

Future maintenance would require only occasional mowing, and removal of litter or debris. No chemical treatments. No expensive equipment to operate or maintain. Over the long term, dry detention is likely to be the least costly option.

Dry vs. wet detention ponds for storm water management

Assuming that either choice is an environmentally acceptable alternative for The Dell, homeowners must make an important decision. Should they go “wet” or “dry?”

Reviewing all four options in the image below, we can see why some real estate developers prefer wet detention vs. dry detention: it often costs less to build wet ponds and channels than dry detention.

Also, in some cases, wet ponds are mandated by local environmental agencies, to separate toxins in storm water from the groundwater supply. (See references below for more information.)

Whatever the reason for installing wet stormwater ponds, home builders often use the strategy of selling home buyers on “water view” lots at higher prices.

Of course, under these circumstances, many homeowners at The Dell may no longer consider their water view to be an added benefit!

Here's the issue for homeowners, including those living in The Dell: the cost of ongoing maintenance is much higher for wet ponds and creeks vs. dry detention channels and basins.

But, in real life, if homeowners don't cooperate and coordinate their time, energy, and investment in clear, free-flowing water ways, they're bound to see repeat failure of the system in a decade or two.

## Review Potential Options

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Option	Description	Cost	City Assistance
1. Fully restore flow	Complete overhaul of old system	\$113,000	Technical assistance with permits
2. Create flow to #3	Install new control valve through levee	\$97,000	Technical assistance with permits
3. Remediate	Aerate, circulate, treat	\$30,000	No permits required
4. Turn into dry detention	Fill in ponds with soil, 1ft above groundwater	\$154,000 Recalculate and reduce cost based on new information	Technical assistance with permits

Here's hoping that Wichita and homeowners at The Dell can work harmoniously together to get rid of the stench and future maintenance headaches.