



## **Town of Wilson News**

**Dear Town of Wilson Resident,**

**Special Edition – May, 2017**

The Town of Wilson Board is issuing this special edition newsletter to update you on recent events regarding the proposed Kohler golf course and the related notice by Kohler Co. to annex nearly 750 acres of land located in the Town of Wilson into the City of Sheboygan. Our intent is to present you with factual information and to also address some of the prevalent misinformation and misunderstandings.

On April 28 Kohler Co. published a notice of their intent to annex from the Town of Wilson to the City of Sheboygan, 270 acres owned by Kohler Co., 345 acres of park land owned by the state, and 135 acres of other privately owned property. We believe Kohler's stated reason for annexation (the need for City services) is dubious at best. With this rarely used method of annexation the fate of every property owner in the annexation path drawn by Kohler Co. could be decided by three renters who reside at two Kohler rental properties, not property owners.

It has also been suggested that the Town Board somehow compelled the Kohler Co. to seek annexation of its land to the City of Sheboygan because of the Board's "inaction" or "unwelcoming" posture towards the proposed Kohler project. Not only is this disappointing to hear, it is false. Your Town supervisors take very seriously their responsibility to follow a required legal process to evaluate Kohler's conditional use permit application for the proposed golf course. This annexation announcement came out of left field to the Town as we've been waiting patiently for Kohler to complete their application so we can begin our work.

### **What are the implications to the Town of Wilson of this unprecedented loss of land?**

- It will erode our tax base.
- It will offer greater opportunity for future annexation of Town lands to the City of Sheboygan (to which Kohler is promoting to the City as an incentive to adopt the annexation).
- It will divide and isolate a large residential area from the rest of the Town.
- It will eliminate the Town's ability to control zoning in a large portion of its environmental corridor.
- It will allow the City to rezone at their discretion property within the annexation territory, which will in effect remove the ability of the Town to protect adjacent property owners from potential adverse impacts, for example, impacts to wells, of potentially intrusive developments.

We have heard overwhelmingly from Town residents they do not support this annexation request by Kohler Co. We understand that cities and villages are much higher up in the hierarchy than townships when it comes to annexation powers, but we believe this particular annexation petition and the path that it takes to be contrived and arbitrary. For that reason, we believe it violates annexation law and that the Town has a strong argument for a successful challenge.

What's more, these types of contentious annexations do little to promote intergovernmental cooperation and to empower residents to have a say in what's important in the communities they live. We want to work with our neighbors to the north to make sure any annexation that is requested by property owners occurs in a more rational pattern.

Finally, we feel it is premature for the City of Sheboygan to consider this annexation request until it is known whether Kohler Co. is able to obtain their permits from the WDNR and U.S. Army Corps of Engineers and until the Town of Wilson is able to complete its conditional use permit evaluation and stipulated conditions for the project. For example, if the project stalls at the state or federal level then the need for annexation no longer exists, and using this nuclear option will have been done in vain.

More detailed information is provided on the following pages. If you have questions, please contact your Town supervisors or the City of Sheboygan Common Council members. Contact information is included.

Sincerely,  
Town of Wilson Board

## OVERVIEW OF THE ANNEXATION AND IMPLICATIONS FOR THE TOWN

- ***Annexation defined:*** Annexation is the process that transfers unincorporated land from towns to incorporated cities and villages. Annexation can only occur if the land is contiguous.
- ***Why this annexation is NOT justified:*** Kohler asserts that it is in the public's best interest to have the proposed golf course located in a financially stable municipality like the City of Sheboygan, which is able to provide the appropriate level of services. Not only does the Town Board find little merit in this argument, it came as a complete surprise to to the Town and several City officials alike. Be assured that the Town of Wilson is financially sound and is more than capable of providing services that are needed. Moreover, Kohler has not once brought this up as a concern since they introduced this project concept three years ago which they have always maintained would rely on their own private wells and septic system even though Town sanitary sewer is available nearby.
- ***Why this type of annexation is controversial:*** Unfortunately Kohler is pursuing a little used method of annexation referred to as "non-unanimous" annexations. This method is rarely used because it can be contentious, often forcing property owners to annex against their will.
- ***Rules of "non-unanimous" annexations:*** Two tests must be met for the signature requirements for non-unanimous annexations. First, if there are electors, which includes any renters, residing within the annexation territory (there are 6), the petition must be signed by at least as many electors as 50% of the votes cast from that territory in the last gubernatorial election (6 votes were cast). Second, signatures are needed which represent at least either (a) one-half of the land within the territory, or (b) one-half of the assessed value of the real estate in the territory.

- ***The troubling nature of this annexation petition:*** To meet the signature requirements, the annexation petitioner (Kohler Co.) needs only three signatures from eligible voters in the territory plus their own (Kohler Co.'s) signature because their property makes up more than 50% of the assessed value of the annexation territory. The 345 acres of state lands have no assessed value. Five resident electors signed the recent petition in favor of annexation, and four of the five are renters at two Kohler-owned rental properties. In other words, there are no petitioners who have an interest or need for municipal services, thus we believe both the annexation petition and path has been contrived. A map and breakdown of the annexation territory is provided, which makes this painfully obvious. It also illustrates how these have come to be known as “balloon on a string” annexations.
- ***How the Town Board is responding:*** By law, the Town has 90 days from approval of the annexation ordinance by the City Council to file a legal challenge. The Town has the ability to raise a variety of arguments, both procedural and substantive. The merits of the annexation are reviewed by the courts applying what is known as the “Rule of Reason.” In general, the Rule of Reason requires the reviewing court to consider (a) whether the boundaries of the annexation are arbitrary, (b) whether the City has a present or future need for the annexation territory, and (c) whether there are any other factors that constitute an abuse of discretion on the part of the City. A simple glance at the shape of the proposed annexation raises serious questions whether the Kohler Co. and the City of Sheboygan will be able to satisfy the Rule of Reason. We have retained attorneys and are prepared to protect our interests to the full extent of the law if the City of Sheboygan attempts this annexation.

## **REFUTING THE STATED NEED FOR ANNEXATION**

The following statements summarize the justification for annexation.

- **“It is in the public’s best interest to have the project be located in a financially stable municipality like the City of Sheboygan, which is able to provide on a long-term basis the appropriate level of services to both the project and residents.”** *Dirk Willis, group director of golf for Kohler Co.’s Hospitality and Real Estate Group as quoted in the April 28, 2017 Sheboygan Press article, Kohler Looks to Annex Golf Course Land into Sheboygan*
- **Sheboygan City Administrator Darrell Hofland also said annexation would give Kohler Co. access to Sheboygan city services such as police, fire and water.** *Excerpt from the April 28, 2017 Sheboygan Press article, Kohler Looks to Annex Golf Course Land into Sheboygan*

We believe Kohler and the City grossly exaggerate that the project will benefit from city services such as fire, police and water, which we believe is disingenuous and misleading to the public. Here is why.

**Financial Strength:** While the City of Sheboygan is certainly on solid financial footing, so is the Town of Wilson. As such, we believe there is no credible reason why this should be a factor in Kohler's project.

- The Town of Wilson maintains a healthy reserve balance, currently near 40% of its general fund operating budget less capital outlay.
- The Town's two sanitary districts are extremely well funded, reserved and maintained, and are able to service the proposed project quite well if the applicant chooses.
- The Town of Wilson Fire Department and emergency responders are well funded and equipped, have experienced and talented leadership and members, and are ideally located.
- The Town will benefit from an additional \$65,000 plus in annual revenues to invest in our roads as a result of the new county sales tax.
- The Town has the ability to generate an additional \$55,000 plus in annual revenues to cover costs for garbage services as voters overwhelmingly passed a referendum in the spring election.

**Water Services:** Kohler Co. has never expressed to the Town that their project would benefit from City water services. Nor is it mentioned in their application or any other documents presented to the WDNR and U.S. ACOE. Kohler has said all along that water for fairway irrigation and their clubhouse would be provided by high capacity wells, much like it is at Whistling Straits. In fact they have already drilled test wells and presented their findings to the WDNR and ACOE as part of their Chapter 30 wetland permit application. In the meantime we've asked Kohler and City officials about Kohler's intentions to use City water but have had little success in getting a clear response. We believe Kohler has a responsibility to make public their intentions regarding using City water in order for the City and the Town to properly evaluate the merits of such a contentious and far-reaching annexation. Especially because it would be significantly more expensive than using the high capacity wells they've already drilled and tested, not to mention the connection costs. "It will be there for possible future use," does not convey a need.

**Fire Services:** We believe that whether the Kohler property remains in the Town of Wilson or is annexed to the City, it will have little if any impact on fire services. With today's mutual aid fire response system, the surrounding fire departments, including the City's, would respond, if needed, along with the Town of Wilson Fire Department and our fire partner, Oostburg Fire Department, to any such fire or emergency on the golf course property. I would challenge Kohler and the city to explain how being in the city would improve fire services to their property.

In addition, the Town Board has recently taken actions to improve the Town's fire services. As of January 1, the fire department reorganized from a privately held corporation which the Town contracted with, to a municipal volunteer fire department governed by the Town Board. This has improved oversight, led to additional funding for fire services, provided more direct accountability to Town residents, and resulted in a talented and well credentialed leadership team. More importantly, we have retained a dedicated and experienced group of volunteer firefighters.

**Police Services:** We also see little justification that City police services will benefit the project, and again, we would ask Kohler Co. and the City to provide further explanation as to why this is important.

## **ADDRESSING ACCUSATIONS THE TOWN'S ACTIONS PLAYED A ROLE IN THE ANNEXATION**

Any inference by Kohler or others that inaction by the Town of Wilson somehow compelled Kohler Co. to seek annexation of its land to the City of Sheboygan is false. The Kohler Co. filed its initial but incomplete application for a conditional use permit (CUP) in March 2014, after which the Town's Plan Commission conducted an initial public informational meeting, with Kohler Co.'s consent, for the purpose of disclosing to the public the general nature of the project. While helpful, this initial public hearing was preliminary in nature as it was based on the limited information that was available at the time. Kohler Co. itself acknowledged that it had not yet completed the various studies necessary to proceed with the CUP. As such, Kohler Co. consented to an indefinite extension to all relevant Town of Wilson zoning ordinance timelines in order to address the many open issues. The Town advised Kohler Co. that it would proceed with the CUP process when Kohler wished to do so. Since then, the Kohler Co. has been working with the WDNR and the U.S. Corps of Engineers in their effort to get permission to fill 3.69 acres of wetlands within their proposed project area. It is important to note that the Kohler Co. has never directly or indirectly told the Town that the Town was delaying the proposed golf course project. Just the opposite—Kohler Co. encouraged the Town to retain the engineering firm of Ruckert & Mielke, Inc. to provide technical advice on the project. Consistent with this, at the request of the Kohler Co., the Town has issued a liquor license (and has continued to renew the liquor license) for the proposed project. Consequently, the Town Board was shocked to hear from sources other than the Kohler Co. that it intended to annex its property to the City. Kohler Co. has never mentioned that the project requires municipal services that only the City can provide. The Town Board believes this explanation is disingenuous.

## **CONDITIONAL USE PERMIT RULES AND WHY THE TOWN CAN'T "CUT DEALS"**

- ***When CUPs are helpful to communities:*** The Kohler property is zoned P-1 Parks & Recreation, as reflected in Town's zoning ordinance, and which supports the tenets of the Town's 20-Year Comprehensive Land Use Plan to value natural areas. A golf course is not a permitted use in P-1 zones, but instead is a conditional use. Conditional use permits (CUPs) serve as zoning exceptions designed to allow for flexibility in zoning laws and to provide for discretion to allow uses otherwise prohibited for the benefit of the community.
- ***Requirements for Towns in evaluating Conditional Use Permits:*** The Town Board must follow a strict process and set of rules, established by both state and local laws, when evaluating CUPs. According to our zoning laws, a CUP application "shall be denied unless the applicant can demonstrate to the satisfaction of the Town that the proposed conditional use will not create inappropriate or undesirable impacts on nearby properties, the environment, or the community as a whole, as determined by the Plan Commission." Kohler Co. has not yet completed their CUP application and has not requested the Town proceed with its review.
- ***Responsibility to be fair and impartial when evaluating CUPs:*** State statutes require that the Town evaluate CUPs in a fair, impartial and unbiased manner. We cannot, as some have suggested we do, "cut deals" or bargain with developers in any way that preempts our responsibility to comply with

local zoning and state laws when evaluating such permits. What we CAN promise an applicant such as Kohler Co. is that we will be thorough, proficient, fair and impartial in our evaluation of the impacts of the proposed golf course and any condition that we would potentially place on the project to mitigate any adverse impacts.

- **Importance of conducting meaningful CUP evaluations:** Most Town officials are not qualified to determine the various impacts of major developments such as a golf course. As such, we must hire, and the CUP applicant must pay for, expert consultants to perform this work. The Town Board has fulfilled this responsibility by retaining three established and credible engineering firms to evaluate the groundwater, surface water, ecological and other potential impacts of the project. As mentioned, in the spirit of cooperation, we chose one of those firms at the request of Kohler Co. These firms are prepared to begin their work once Kohler has submitted their complete application to the Town.

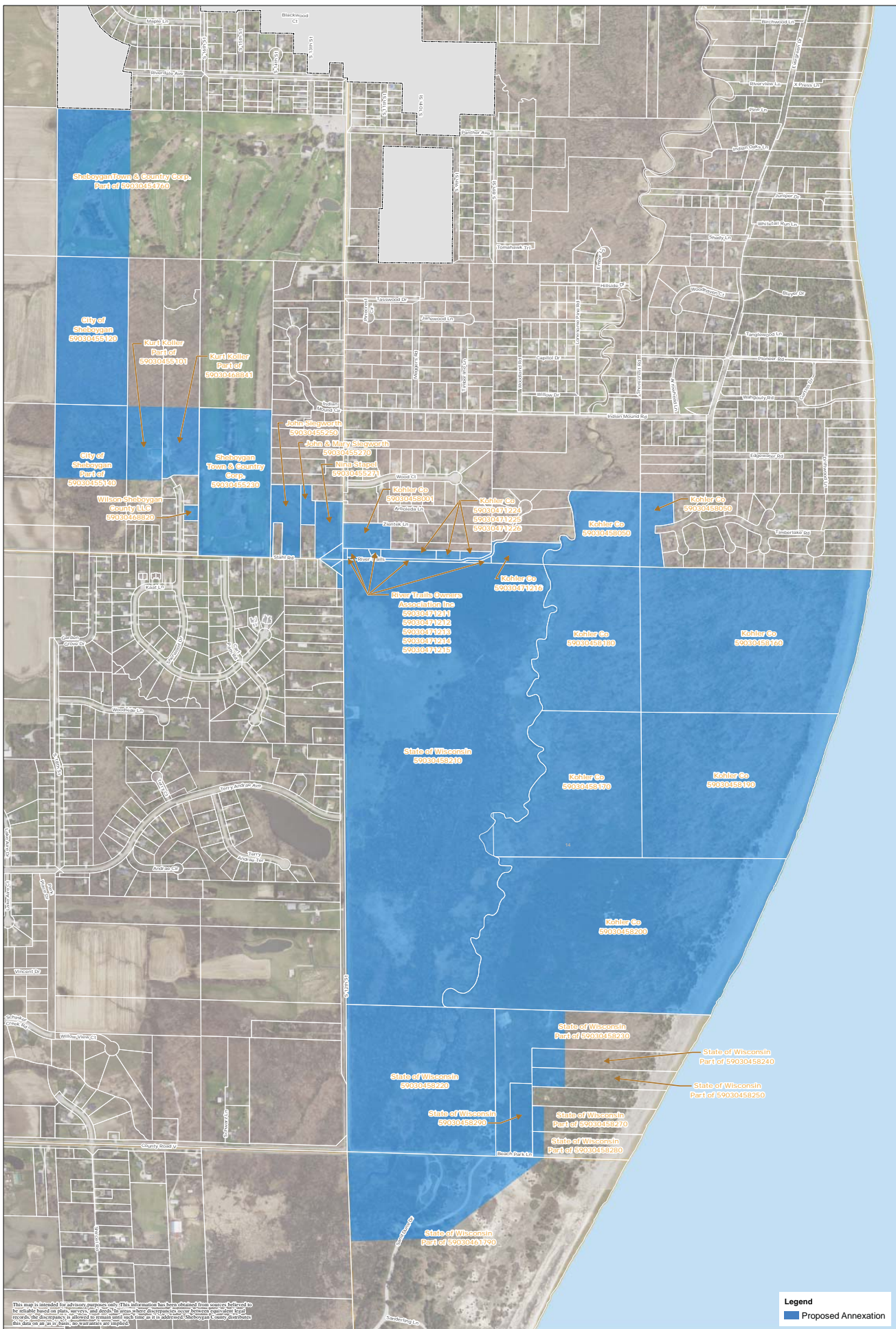
If you have any questions or simply wish to make your voice heard we encourage you to call your elected leaders.

#### **Town of Wilson Supervisors**

John Ehmann, Chair	920-254-9362	chairman@townwilson.com
Dan Rostollan	920-946-5586	supervisorodr@townwilson.com
Brian Hoffmann	920-918-2010	supervisorbh@townwilson.com
Nancy DesJardin	920-457-1230	supervisorndj@townwilson.com
Tom Stoelb	920-627-5647	supervisorts@townwilson.com

#### **Sheboygan Common Council**

Todd Wolf	920-226-1698	todd.wolf@sheboyganwi.gov
John Belanger	920-946-2738	john.belanger@sheboyganwi.gov
Roman Draughon	920-377-0851	roman.draughon@sheboyganwi.gov
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Henry Nelson	920-457-6766	henry.nelson@sheboyganwi.gov
Bryan Bitters	920-452-5195	bryan.bitters@sheboyganwi.gov
Mayor Mike Vandersteen	920-459-3317	Mayor.Vandersteen@sheboyganwi.gov



This map is intended for advisory purposes only. This information has been obtained from sources believed to be reliable based on plans, surveys and records. In areas where discrepancies occur between county official legal records, the discrepancy is allowed to remain until such time as it is addressed. Sheboygan County distributes this data for use as a guide. No warranties are implied.

**Legend**  
 Proposed Annexation



**Proposed Annexation to City of Sheboygan  
 Town of Wilson, Sheboygan County, WI**

0 175 350  
 Feet





PRSR STD  
US POSTAGE  
PAID  
SHEBOYGAN, WI  
PERMIT #1

**TOWN OF WILSON**  
5935 SOUTH BUSINESS DRIVE  
SHEBOYGAN, WI 53081

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## Contact Information:

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**Town Office Hours:**

*Monday - Thursday*  
**8:00 am- 4:30 pm**  
**Phone:** (920) 208-2390  
**Fax:** (920) 208-2450

**Town of Wilson Maintenance Site**

**4430 Meyer Road**  
**Recycle Center Hours:**  
**Tuesday 8:00 am- 5:00 pm and Saturday 8:00 am- 4:00 pm**

**Sanitary District Office Hours:**

*Monday and Thursday*  
**8:30 am – 12:30 pm**  
*Tuesday: 12:00 pm – 3:30 pm*  
**Phone:** (920) 694-0088  
**Fax:** (920) 452-0548

**John Ehmann, Town Chairman**  
(920) 254-9362  
Email: chairman@townwilson.com

**Tom Stoelb, Town Supervisor**  
(920) 627-5647  
Email: supervisors@townwilson.com

**Brian Hoffmann, Town Supervisor**  
(920) 918-2010

**Nancy DesJardins, Town Supervisor**  
(920) 457-1230  
Email: supervisorndj@townwilson.com

**Dan Rostollan, Town Supervisor**  
(920) 946-5586  
Email: supervisordr@townwilson.com

**James Van Ess, Town Constable**  
(920) 458-3770

**James Whipple, Town Constable**  
(920) 627-2462

**GROTA Appraisals (262) 253-1142**

**EMERGENCY SANITARY SEWER**

*Tom Sanville: 920-457-6554*  
*Otis Kiehl: 920-918-8723*  
*Steve Pautz: 920-946-2216*  
*Or during Sanitary District Office Hours:*  
**920-694-0088**

**Georgene Lubach, Town Clerk**  
(920) 208-2390  
Email: clerk@townwilson.com

**Julie Evans, Town Treasurer**  
(920) 208-2390, Ext. 302  
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**Mandy Tran, Sanitary District  
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**Rick Meyer, Maintenance & Road  
Supervisor** (920) 980-0198  
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**Tom Rogers, Electrical Inspector**  
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**Larry Hilbelink, Building Inspector/  
Plumbing Inspector** (920) 946-0252