

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
COUNTY DITCH 24 PRELIMINARY IMPROVEMENT HEARING
MARCH 1, 2017

The Faribault County Board of Commissioners, acting as the Drainage Authority for County Ditch 24 met at 9:00 a.m. on March 1, 2017. The following members were present: Bill Groskreutz, Tom Loveall, Tom Warmka, and Greg Young Commissioners. County Auditor/Treasurer/Coordinator John Thompson, Drainage Manager Merissa Lore, Project Engineer Charles Brandel, and Drainage Authority Legal Counsel Kurt Deter were also present. Petitioner's Attorney Bruce Sellers and Attorneys Erick Kaardal and Todd Ullom of Sambatek representing a landowner also attended.

The meeting was called to order by Vice-Chair Young.

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Groskreutz/Warmka motion carried unanimously to accept the affidavit of mailing as presented by County Auditor/Treasurer/Coordinator Thompson.

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Drainage Authority Attorney Kurt Deter explained the reason for a preliminary hearing

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Project Engineer Charles Brandel reviewed the preliminary engineers report. After presenting the report the Engineer stated that the CD24 petition is to abandon the existing waterway from the NW1/4 of the SW1/4 of Section 9 in Winnebago Township to the end of the waterway as well as improve the mainline tile to increase the capacity of the tile as well as gain depth in the system. The improvements proposed to the system are to abandon and improve the mainline to a 36-inch tile at the outlet to achieve a .50 in/day drainage coefficient. The project as proposed, is a practical and feasible and its necessity was described in the report. The project will be a public benefit and contribute to the public welfare of the area. Therefore, the engineer recommended that the project be considered for a preliminary approval as present in the report. The engineer recommended that the Drainage Authority order a final survey report and appoint viewers in preparation for a final hearing.

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County Auditor/Treasurer/Coordinator John Thompson read the Department of Natural Resources preliminary advisory letter dated February 28, 2017. Engineer Brandel presented a memo acknowledging the report and outlining the responses to the three items and questions from the advisory letter.

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The hearing was opened for public comment.

Attorney Erick Kaardal representing land owner Charles Carlson presented a letter and numerous exhibits. His summary of findings for his client are as follows;

1. The restriction to the County Ditch 24 system approved as part of the Grassed Waterway "Repair" were effectively improvements to the system and the legal proceedings regarding the approval of these improvements should have followed in accordance with MN statute 103E.215.
2. H/H modeling should be provided for an independent engineering review to quantify the 100-year capacity and high water levels (HWL's) of the CD24 system under the as-constructed 1959 condition.
3. H/H modeling should be provided for an independent engineering review to assess the impacts to the overall CD24 system given the current condition that the open channel areas on the Golly Farms and Brown properties are filled in and are not providing the as constructed drainage benefits.
4. H/H modeling should be provided for an independent engineer review to assess the impact of the 2014 installation of the two (2) 96-inch droop structures with the 60-inch outlet along the ravine to the overall capacity of the CD24 system for the 100-year event.
5. The Branch A crossing below 240th Street was thought to be crushed and abandoned as part of previous ditch proceedings petitioned by Charles Carlson. The H/H modeling should reflect this reduction in drainage area if this connection has been severed. If the connection will be maintained, a clear assessment of the change in flooded area for the 100-year event should be provided.
6. Hydrologic/hydraulic modeling should be provided for an independent engineering review to verify that the JCD201 system was included in the drainage area for the CD24 system.

Engineer Brandel responded by stating current conditions were used in the preliminary report. Modeling has been done on the JCD 201 system.

Kurt Deter asked if an obstruction report was received on the system. Staff response was that they do not recall that a letter was received however the condition of the shallow ditch system has been a topic of discussion since 2014. The issue first came up when buffer strips were planned to be implemented after a redetermination. The drainage authority has been working on a repair plan while landowners considered the improvement being discussed.

Steve Zebedee, landowner, stated that Charles Carlson was one the those farming through the waterway.

Merissa Lore asked a question on what the definition of an obstruction was. Kurt Deter responded that it was not normal silt but could be rocks, concrete or other items that would restrict flow.

Commissioner Warmka stated his concern with abandoning the waterway and the flow of water. Brandel reported there would be less water flowing over the top of the ground but it would be less. He also stated that the petitioner requested the abandonment of the system.

Cesar Larson asked why the board would consider an improvement that put water on the landowners at the lower end. Kurt Deter responded that petitioners have asked for the improvement and the Statute 103E governs the process. Brandel stated that the plan is to run a tile directly to the deep ditch. This will relieve pressure on the line of tile through the Carlson property. It was noted that those landowners desired to have their tile repaired as part of the repair proceeding in 2016.

Drainage Manager Merissa Lore asked if the old main tile line would be abandoned or still maintained by the drainage authority. Petitioner's attorney Bruce Sellers stated a petition to abandon the main tile would be forthcoming based on the outcome of this proceeding.

Discussion was held on what the status of the buffer strip would be. Landowners have been paid for the strip. Deter replied that it the viewers had the authority to charge benefits for such instances.

The public comment portion of the hearing was closed.

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Loveall/Warmka motion carried unanimously to accept the engineer's report and direct staff to draft an order that the drainage authority finds that the proposed drainage project outlined in the Petition and modified by the board and recommended by the engineer is feasible, that there is a necessity for the drainage project, that the proposed drainage project will be of public benefit and promote the public health, after considering the environmental and land use criteria in Section 103E.015, Subd.1. and that the outlet is adequate.

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Warmka/Groskreutz motion carried unanimously to direct engineer to consider the following in the final survey report: Effect on plan due to the elimination of the land north of the county road 14, how Branch B will be incorporated into the system, include discussion of overland flow of water due to the abandonment of the grass waterway that is planned, and to ask legal counsel to address concerns brought forward by Charles Carlson's attorney.

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Loveall/ Groskreutz motion carried unanimously to direct staff to draft order appointing the following viewers to view the project: Chris Christenson, Mark Behrends, Robert Hanson, and Dennis Distad.

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Loveall/ Warmka motion carried unanimously to direct staff to address issue of obstructions in County Ditch 24's shallow open ditch and report back to the drainage authority with a synopsis of the recent proceedings on CD24.

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The hearing was adjourned.

Greg Young, Vice-Chair

John Thompson, Auditor/Treasurer/Coordinator