

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
OCTOBER 3, 2017

The Faribault County Board of Commissioners met in regular session at the Courthouse in the City of Blue Earth at 9:00 a.m. on October 5, 2017. The following members were present: Bill Groskreutz, Tom Loveall, John Roper, Tom Warmka, and Greg Young Commissioners. Auditor/Treasurer/Coordinator John Thompson and County Attorney Troy Timmerman were also present.

The meeting was called to order by Chair Roper. The pledge of allegiance was recited.

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Warmka/Young motion carried unanimously to approve the synopsis and official proceedings of the September 5, 2017 regular and drainage, September 18, 2017 drainage CD20, September 19, 2017 regular, September 19, 2017 drainage CD24, and September 25, 2017 special meeting.

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Young/Groskreutz motion carried unanimously to approve the agenda of October 3, 2017.

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Committee reports were given. Warmka reported on AMC Futures, Groskreutz reported on MRCI and Health conference, Young reported on Southern Minnesota Initiative and City of Blue Earth meeting, Roper reported on Health conference.

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Considered order for CD24 obstruction. Attorney Erick Kaardal attended.

Warmka/Young motion carried unanimously to approve the following findings and order that state the determination is that no obstruction exists on CD 24 that was created by a person or public authority. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

FINDINGS AND ORDER

This matter came before the Drainage Authority on the complaint of Charles Carlson that the drainage system has been obstructed at parcel 20.017.0302, a parcel owned by Golly Farms. The parcel in question is located in section 17 of Township 104 Range-028, Winnebago City Township.

Faribault County Ditch No. 24 (CD 24) is a 1,008 acres watershed located in Winnebago City Township in Northwest Faribault County, The CD 24 system consists of approximately 17,730 linear feet of buried tile approximately 1,800 linear feet of deep open ditch, and approximately 9,000 feet of shallow grassed waterway. CD 24 was originally constructed in 1915 as a buried tile system and was improved in 1959 with the construction of a waterway. The waterway drains in a generally northeast direction and outlets into a steep ravine leading to the Blue Earth River.

The record upon which this decision is based includes statements presented at the obstruction hearing, including the testimony of complainant Charles Carlson, materials presented by Mr. Carlson's attorney, the repair proceedings previously conducted, and the submissions presented by the parties to the District Court, including declarations by Brandel and Lore.

Portions of the grassed waterway in Sections 8 and 17 are significantly higher than legal grade set in 1959. This portion of the grassed waterway is 2 to 3 feet above legal grade. The evidence does not establish that the filling of this waterway results from an obstruction. The filling does reduce the flow of water through the drainage system that would otherwise flow if CD 24 were repaired. However, the unrepaired state of the system does not cause harm to complainant Carlson.

At prior hearings, the drainage authority considered a petition for repair for the entire system. On June 24, 2016, the Drainage Authority conducted an officially noticed final hearing on landowner requests for repair of CD 24. Prior to that final hearing the drainage authority held a number of public meetings and hearings to receive public input on the best way to address concerns regarding the system's operation. At the June 24, 2016, the drainage authority approved repair of the downstream portion of the system as the first phase in addressing the needs of the entire system. During these hearings, the Drainage Authority was advised that many landowners in the upstream portion of the system believed that an improvement which would replace the waterway with underground tile would be a superior approach to addressing the concerns regarding the filling of the waterway. A petition to improve the system has been filed.

The drainage engineer has advised the drainage authority that the two proceedings – the approved repair and the pending improvement proceeding - are the most appropriate procedures to resolve all of the concerns about the operation and configuration of the system, including the concerns raised by Mr. Carlson. He has advised the Drainage Authority that trying to fix this system through the obstruction provision would fail to provide a permanent, efficient, and adequate solution.

An important consideration leading to the decision to resolve drainage issues in two steps was the fact that conducting a traditional repair of the entire system, and then following that repair with an improvement, would result in a significant waste of money because some of the work involved in the repair would be unnecessary if the improvement were adopted.

As a result of June 16, 2016 final repair order, the downstream portion of the system will have the full legal capacity authorized by the 1959 improvement restored. If approved, the proposed improvement will allow flow of water without obstruction. If approved, the improvement will provide all of the drainage capacity that was authorized by the 1959 improvement. The improvement will also decrease the amount of overland flow throughout the system and thus reduce flooding. If the petition for improvement is denied, the Drainage Authority will then address the concerns at a repair hearing.

The Board determines that the drainage system has not been obstructed by a person or public authority. The Board further determines that the best approach to addressing the conditions in the upper reaches of the drainage system is through the statutory improvement proceedings that are now underway.

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Tax Clerk Lorrie Bosma met regarding SSTS business.

Warmka/Young motion carried unanimously to approve an SSTS grant of \$3,000 to Kristine Ratcliff on Parcel No. 04.024.0301.

Loveall/Groskreutz motion carried unanimously to approve an SSTS loan of \$12,000 and a grant of \$3,000 to Donald Kloss on Parcel No. 08.024.0301.

Warmka/Groskreutz motion carried unanimously to approve an SSTS loan of \$12,438.92 and a grant of \$3,000 to Dwight & Lori Olson on Parcel No. 18.028.0302.

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Central Services Director Dawn Fellows met regarding office business.

Groskreutz/Warmka motion carried unanimously to authorize renewal rates for long-term disability insurance for 2018.

Warmka/Groskreutz motion carried unanimously to authorize renewal rates for Sun Life Insurance for 2018.

Loveall/Warmka motion carried unanimously to approve the 2018 rates for Blue Cross Blue Shield Group Medicare for 2018.

Warmka/Loveall motion carried unanimously to approve change order #3 on Mid-Continental Restoration contract in the amount of \$6,694.00 to repair fascia on the courthouse roof.

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Sheriff Mike Gormley and Chief Deputy Scott Adams met regarding office business.

Groskreutz/Loveall motion carried unanimously to approve Emergency Management grant of \$19,784 and authorize the chair and Auditor to sign the grant. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

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Public Works Director Mark Daly met regarding office business. A construction update was given.

Young/Loveall motion carried unanimously to approve Resolution 17-RB11-29 approving final payment of \$117,236.74 to Minnowa Construction Inc. making the total paid \$2,076,627.80 for SP 022-606-17 North Main Street project. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

RESOLUTION

WHEREAS, SP 022-606-017, North Main Street project has in all things been completed; and

WHEREAS, the final contract amount is \$2,076,627.80 which is \$72,957.13 less than the original contract bid of \$2,149,584.93; and

WHEREAS, to date \$1,959,391.06 has been paid to the contractor leaving a balance of \$117,236.74; and

WHEREAS, the work has been performed satisfactorily and all necessary forms have been completed and received by the Highway Department.

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners in and for the County of Faribault Minnesota that we do hereby accept said completed project and authorize final payment to Minnowa Construction Inc.

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Temporary Assistant Veterans Services Officer Jenna Schmidtke met regarding office business.

Warmka/Groskreutz motion carried unanimously to approve a grant from Minnesota Department of Veterans Affairs in the amount of \$10,000. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

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Warmka/Young motion carried unanimously to approve requests of D. Wick to attend a 1-day MN Fall Maint. Expo in St. Cloud, B. Shimmon to attend a 1-day MN Dist. 7-8 fall meeting in Redwood Falls, D. Esser to attend a 2-day MN Assoc. of County Auditor, Treasurers, & Finance Officers regional meeting in Morton, D. Fellows to attend AMC Annual Conference in St. Cloud, and C. Beaver to attend a 1-day POST board licensure course in St. Cloud.

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Loveall/Young motion carried unanimously to approve Resolution 17-CB-30 the findings and order for the repair of County Ditch 20. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

RESOLUTION

FINDINGS

1. A petition filed September 20, 2016 was received by the County Auditor of Faribault County requesting to repair County Ditch 20 pursuant to Minn. Stat §103E.715.
2. The drainage authority met at Blue Earth, MN on January 3, 2017 at the County Board Room, accepted the petition for the repair of County Ditch 20, and determined that the drainage system needed repair, and appointed Charles Brandel of ISG to prepare an engineer's report pursuant to Minn. Stat. §103E.715, subd. 2.
3. The engineer's report was filed with the drainage authority on March 28, 2017. The drainage authority, in consultation with the auditor, held an informational hearing on the repair report on April 7, 2017.

4. Notice of the hearing on the repair report was provided by mail to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report in accordance with Minn. Stat. §103E.715, subd. 3.
5. The engineer filed a revised repair report on August 11, 2017.
6. The drainage authority, in consultation with the Auditor, ordered a hearing on the repair report to be held on September 19, 2017.
7. Notice of the hearing on the repair report was provided by mail to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report in accordance with Minn. Stat. §103E.715, subd. 3.
8. No property owners were determined by the engineer to be draining into the drainage system or benefitting from the drainage system for which no assessment of benefits was made for the construction of the drainage system. The engineer submitted a map with the repair report showing all public and private main ditches and rains that drain into the drainage system.
9. A public hearing before the drainage authority was held on September 19, 2017 at 1:00 p.m. in the Ag Center Meeting Room, Blue Earth, MN.
10. At the public hearing, Engineer Brandel and Becky Guenther, ISG presented the repair report filed in August of 2017. The final report has been modified after an informational report held in April of 2017. The repair is primarily a clean out of the open ditch. Profiles of sediment were provided in the report and were reviewed in the presentation. The spreading of spoils was discussed. Contractors will be directed to stay within the 100-foot right of way purchased by the drainage authority. Cost of the repair was estimated at \$486,200. A road crossing being above the legal grade will also be reset. The engineer stated the open ditch was out of repair and recommended the repair report be approved.
11. The engineer estimated the cost of the repairs to be \$486,200.
12. The engineer's report contains all of the details, plans, and specifications necessary to prepare and award a contract for the repairs
13. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
 - a. Don Linder, property owner, asked if consideration had been given to repair of County Ditch #3. Several commissioners stated that County Ditch #3 was in a redetermination process and a repair report would be ordered soon. Rip rap under a bridge over State Highway #109 was reported to be holding water back. Drainage Manager Lore will
 - b. Scott Johnson, property owner, stated that the location where Branch B and the Main Branch intersect had been cleaned in recent years and why it needed to be cleaned again. Engineer Brandel showed the profile that showed additional cleaning was needed in that area.

- c. Kerry Doyle, property owner, asked if trees would be removed along the system that had been left after the tree removal from the last year. Commissioner Warmka stated that trees outside of the 16 ½ foot buffer area were not under the jurisdiction of the drainage authority.
 - d. Steve Schmidt, property owner, asked if selective cleaning could be done to lower the cost. Engineer Brandel stated that selective cleaning would end up costing more. He recommended that the full repair be completed.
 - e. Auditor Thompson noted that the costs would be assessed over 15 years and that bonding would be necessary.
 - f. Merissa Lore, Drainage Manager requested that the buffer planting and maintenance be taken out of the repair contract as the drainage department will take care of that project. She also stated that tree removal had been completed in many areas and was not included in the cost of the repair as outlined.
 - g. Engineer Brandel stated that a completion date on a contract for repair should be sent later in 2018 to be able to obtain more favorable bids.
14. The drainage authority finds, consistent with the engineer's report, the public comments received at the public hearing on the engineer's report, and the entire record of proceedings, that the open channel of County Ditch 20 is out of repair; that the condition of County Ditch 20 impedes the flow of water and reduces the hydraulic efficiency of the drainage system below that established by the original construction and/or subsequent improvement of the drainage system.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch 20 hereby orders as follows:

- A. That the Petition for the repair of CD20 in the location specified in these findings and recommended in the engineer's report is granted and is consistent with the engineer's recommendations and with the findings above.
- B. The line items for buffer strip planting and buffer strip mowing shall be deleted from a contract and administered by county staff.
- C. The County Auditor and the Engineer shall proceed to prepare and to award a contract for the repair of the drainage system consistent with the procedures required by Minn. Stat. Ch. 103E and under Minnesota law. The contract must be for the repair described in the repair report and as determined necessary by the drainage authority in these findings and order, and be prepared in the manner provided in Minn. Stat. Ch. 103E for the original drainage system construction.
- D. The cost of the repair shall be paid from the funds in the maintenance account for CD20 and by assessments made to the properties benefited by the drainage system in the drainage system records with an assessment to be spread over 15 years at an interest rate to be determined by the county board.
- E. It is the intent of the Drainage Authority to issue bonds for the cost of the project after any prepayments of assessments.

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Groskreutz/Warmka motion carried unanimously to pay bills totaling \$322,928.31 as follows:

COUNTY REVENUE FUND	\$ 49,118.07
PUBLIC WORKS FUND	31,002.24
ECONOMIC DEV AUTH	1,241.50
COUNTY LIBRARY FUND	42,777.75
HUNTLEY SEWER DISTRICT	1,535.50
DITCH FUND	4,265.00
HUMAN SERVICES FUND	<u>192,988.25</u>
	\$ 322,928.31

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The meeting was recessed to 9:00 a.m. October 17, 2017 meeting.

John Roper, Chair

John Thompson, Auditor/Treasurer/Coordinator