

PROCEEDINGS OF THE MURRAY COUNTY BOARD OF COMMISSIONERS
MURRAY COUNTY GOVERNMENT CENTER – SLAYTON, MINNESOTA
July 23, 2013 8:00 a.m.

Pursuant to notice, the Murray County Board of Commissioners convened with the following members present: Commissioners Gerald Magnus, Robert Moline, John Giese, James Jens and David Thiner. Also present Aurora Heard, County Coordinator, Heidi Winter, Auditor-Treasurer, Paul Malone, County Attorney.

The meeting opened by reciting the Pledge of Allegiance to the Flag.

No conflict of interest identified.

The Chairman asked if there were any additions to the agenda. Several items were added.

Consent Agenda

1. Approval of the Minutes from July 16, 2013
2. Approval of the Budget Minutes from July 9, 10, and 11 2013

It was moved by Moline, seconded by Giese and passed to approve the agenda as modified and consent agenda items number one and two.

Ditch Bills

A motion was made by Jens, seconded by Giese, with all members of the Board voting their approval to accept the report of the Ditch Committee of the County and Judicial Ditches lying within the County of Murray on those petitions for repair that have been inspected for determining what repairs, if any, are necessary, the extent and nature of such repairs, an estimated costs of such repairs or a list of bills presented for payment that will enable said ditches to answer their purposes and to pay all bills contained within the report.

<u>Contractor</u>		<u>Amount</u>	<u>Petition #</u>	<u>Inspector</u>
<u>Johnson Ditching</u>				
	Co 46	1,108.09	2013-015	Robert Moline
	Co 75	231.30	2013-016	Gerald Magnus
Total for Johnson Ditching		1,339.39		
<u>Bolton & Menk, Inc.</u>				
	Co 35	1,291.00	2013-006	Improvement
	Co 82	915.00	2012-017	Improvement
Total for Bolton & Menk		2,206.00		
<u>Rinke Noonan</u>				
	Co 35	235.00	2013-006	Improvement
	Co 82	446.50	2012-017	Improvement
Total for Rinke Noonan		681.50		
Total Ditch Contractor Bills		4,226.89		

Heidi Winter presented the following petitions for repair:

- #2013-032 (*Judicial Ditch 14, 20 - Leeds Township, Moline*)

A motion was made by Moline, seconded by Jens and carried that the Commissioners appointed as Inspectors in and for the County of Murray, are hereby instructed to examine and inspect that portion of the foregoing described County and Judicial Ditches, lying within the County of Murray, for the purpose of determining what repairs are necessary, and if deemed necessary, to prepare either a cost estimate of said repair, or order said repairs to be made, with a report to be given thereon at a Murray County Board of Commissioner’s meeting, held in the Commissioners Room of the Murray County Government Center, Slayton, Minnesota.

Seven Mile Park – Sand Volley ball court Donation

It was moved by Thiner, seconded by Magnus and passed to accept a \$550 donation from the American Legion Gambling Committee restricted for the purpose of offsetting expenditures for sand volleyball courts at Seven Mile Lake Park, further moving to approve an LG555 "Government Approval for Use of Gambling Funds" and authorize Coordinator Heard to sign the acknowledgement on behalf of the County. (Receipt code: 01-521-525-5760).

Consensus to order the volley ball nets.

Surplus Equipment – Sale of House

It was moved by Moline, seconded by Giese and passed to approve the sale and removal of a single story 24' x 34' single dwelling home located at 2123 Juniper Avenue to Doug Rupp for the bid price of \$500.00; this sale was authorized through a motion on June 25, 2013 and required that the structure be moved by September 13, 2013.

Surplus Equipment – Sale of Garage

It was moved by Giese, seconded by Magnus and passed to approve the sale and removal of a 24' x 26' garage located at 2109 Juniper Avenue to Doug Rupp for the bid price of \$600; this sale was authorized through a motion on June 25, 2013 and required the structure be moved by August 15, 2013.

Sick Leave Policy Update

It was moved by Thiner, seconded by Jens and passed to update the sick leave policy to reflect state statute changes with an effective date of August 1, 2013.

BRRT Memorandum of Understanding

It was moved by Giese, seconded by Thiner to approve and authorize the Board Chair to sign a memorandum of understanding with the Buffalo Ridge Transit.

Improvement, Lateral and Authorized Outlet – County Ditch 35

Commissioner Moline presented the following resolution and moved for its adoption:

Resolution 2013-07-23-01
Preliminary Hearing for the Improvement
of Murray County Ditch #35, Lateral to
Murray County Ditch #35 and Outlet
for Murray County Ditch #35

BEFORE THE MURRAY COUNTY BOARD OF COMMISSIONERS, ACTING AS DRAINAGE
AUTHORITY FOR MURRAY COUNTY DITCH #35

Findings of Fact and Order Regarding
Preliminary Hearing for the Improvement
of Murray County Ditch #35, Lateral to
Murray County Ditch #35 and Outlet
for Murray County Ditch #35

WHEREAS, Petitions were received by the Murray County Board of Commissioners, Acting as Drainage Authority for Murray County Ditch #35, requesting the improvement of portions of Murray County Ditch #35, the establishment of an outlet to Murray County Ditch #35 and the authorization of an outlet into Murray County Ditch #35; and

WHEREAS, pursuant to proper notice, a preliminary hearing and outlet hearing was held on July 23, 2013, at 9:15 a.m. in the Commissioners' Room at the Murray County Government Center; and

WHEREAS, Duane Hansel, duly appointed engineer, presented his preliminary engineer's report; and

WHEREAS, an opportunity was given for any DNR advisory report; and

WHEREAS, the public hearing was open to public comment and questions.

NOW, THEREFORE, based on the evidence presented in the engineer's preliminary engineer's report, the public comment and questions and all other presented evidence makes the following findings of fact and order both as to the improvement of portions of Murray County Ditch #35 and the lateral to Murray County Ditch #35.

1. That the proposed drainage project outlined in the Petition and recommended by the engineer is feasible.
2. There is a necessity for the proposed drainage project.
3. 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.
4. The outlet is adequate for both projects.
5. That further an outlet is granted to the proposed lateral to Murray County Ditch #35 and a specific finding is made that there is sufficient capacity as an outlet for this lateral.

NOW, THEREFORE, it is hereby ordered that the above findings of fact are hereby adopted both as to the improvement and the lateral and that an outlet is granted to the lateral into Murray County Ditch #35. That further Jim Weidemann, Duane Bendixsen, and Steve Johnson are hereby appointed viewers to determine benefits and damages on the above-described projects.

The resolution was duly seconded by Commissioner Magnus, and thereupon being put to a vote all members of the Board voted for its adoption.

Dated this 23rd day of July, 2013

MURRAY COUNTY BOARD OF COMMISSIONERS, ACTING AS DRAINAGE AUTHORITY
FOR MURRAY COUNTY DITCH #35

By _____
Gerald Magnus, Its Chairperson

Commissioner Jens presented the following resolution with the findings of fact and order regarding the redetermination of benefits and damages of County Ditch 35:

Resolution 2013-07-23-02
Findings of Fact and Order Regarding
Redetermination of Benefits for County Ditch 35

COUNTY DITCH 35 REDETERMINE BENEFITS AND DAMAGES

BEFORE THE MURRAY COUNTY BOARD OF COMMISSIONERS, ACTING AS DRAINAGE
AUTHORITY FOR MURRAY COUNTY DITCH #35

Findings of Fact and Order Regarding
Redetermination of Benefits Pursuant to
Minnesota Statutes 103E.351

WHEREAS, There is currently pending an improvement to portions of Murray County Ditch #35 and a lateral to Murray County Ditch #35; and

WHEREAS, evidence has been presented that it would be the proper time to do a redetermination of benefits of the entire system for the efficiency of future repair cost distributions; and

NOW, THEREFORE, the Murray County Board of Commissioners, acting as Drainage Authority for Murray County Ditch #35, makes the following findings of fact and order:

1. That the benefits and damages do not reflect current day land values.
2. That the benefited area has changed since the original assessment roll.

NOW, THEREFORE, it is hereby ordered that a redetermination of benefits shall be done.

The foregoing was duly seconded by Commissioner Giese, and thereupon being put to a vote all members of the Board voted for its adoption.

Dated this 23rd day of July 2013

MURRAY COUNTY BOARD OF COMMISSIONERS, ACTING AS DRAINAGE AUTHORITY
FOR MURRAY COUNTY DITCH #35

By _____
Its Chairperson

County Ditch 35 Ditch Viewers

It was moved by Moline, seconded by Jens and passed to approve appointing the following viewers for a redetermination of county ditch 35 Jim Weidemann, Duane Bendixsen, and Steve Johnson.

10:00 A.M. Open Forum/Public Comment – No members of the public were present.

Lowville 36, Grade Stabilization Repair was discussed. No action was taken.

Robin Weis gave an annual update on RSVP. No action was taken.

Discussion on easements on county CSAH 12, project number SP 51-612-13. No action was taken.

Discussion on Avoca Dam. No action was taken.

Wheelage Tax

It was moved by Moline, seconded by Giese to not implement the wheelage tax for 2014 and to revisit it next year.

Voting in Favor: Giese, Moline, Jens, Magnus

Opposed: Thiner

Motion carried 4 to 1.

11:40 a.m. Commissioner Giese was excused.

Final Hearing Improvement and Redetermination of Benefits – County Ditch 82

Commissioner Jens presented a resolution regarding the redetermination of benefits for county ditch 82 and moved for its adoption:

Resolution 2013-07-23-03
Redetermination of Benefits for County Ditch 82

BEFORE THE MURRAY COUNTY BOARD OF COMMISSIONERS ACTING AS DRAINAGE
AUTHORITY FOR MURRAY COUNTY DITCH #82

Findings of Fact and Order Concerning
Redetermination of Benefits, Pursuant to
Minnesota Statutes 103E.351

WHEREAS, a Petition has been submitted for an Improvement of portions of Murray County Ditch #82; and

WHEREAS, viewers have been appointed to determine benefits and damages for that Improvement; and

WHEREAS, the original benefits, as determined in the original drainage proceedings, do not reflect reasonable present day values and the benefitted or damaged areas may have been changed.

NOW, THEREFORE, the Murray County Board of Commissioners, acting as Drainage Authority for Murray County Ditch #82, hereby orders the Redetermination of Benefits for Murray County Ditch #82 and appoints Jim Weidemann, Duane Bendixsen, and Steve Johnson as viewers. It is the intention

that the same viewers are working on the Improvement and the Redetermination of Benefits and the Improvement Final Hearing and the Hearing on the Redetermination of Benefits will be heard on the same date in the future.

Dated this 23rd day of July, 2013.

The foregoing resolution was duly seconded by Commissioner Moline, and thereupon being put to a vote all members of the Board voted for its adoption.

MURRAY COUNTY BOARD OF COMMISSIONERS ACTING AS DRAINAGE
AUTHORITY FOR MURRAY COUNTY DITCH #82

By _____
Gerald Magnus, Its Chairperson

Commissioner Moline presented a resolution for the improvement of County Ditch 82 and moved for its adoption:

Resolution 2013-07-23-04
Findings of Fact and Order Establishing
Improvement to Murray County Ditch #82

BEFORE THE MURRAY COUNTY BOARD OF
COMMISSIONERS ACTING AS DRAINAGE AUTHORITY
FOR MURRAY COUNTY DITCH #82

Findings of Fact and Order Establishing
Improvement to Murray County Ditch #82
Pursuant to Minnesota Statutes 103E.341

WHEREAS, a petition requesting the improvement of portions of Murray County Ditch #82 was submitted to the Murray County Board of Commissioners, acting as Drainage Authority for Murray County Ditch #82; and

WHEREAS, pursuant to Minnesota Statutes 103E, Duane Hansel of the engineering firm of Bolton & Menk was appointed as the engineer; and

WHEREAS, a final engineer's report was filed with Murray County Auditor's Office; and

WHEREAS, three viewers were appointed to do a benefits and damages determination for the improvement to Murray County Ditch #82; and

WHEREAS, a final viewers' report was submitted to the Murray County Auditor; and

WHEREAS, a final hearing was held at 11:00 a.m. on July 23, 2013, in the Commissioners' Room of the Murray County Courthouse; and

WHEREAS, the final engineer's report was given by Duane Hansel and included separable maintenance as a portion of the tile line to be improved is out of repair; and

WHEREAS, Jim Weidemann, one of the three appointed viewers, gave the viewers' report concerning the improvement to Murray County Ditch #82; and

WHEREAS, no DNR advisory report was submitted prior to the public hearing; and

WHEREAS, public comment and questions were taken concerning the engineer's report and the viewers' report.

NOW, THEREFORE, the Murray County Board of Commissioners, acting as Drainage Authority for Murray County Ditch #82, makes the following findings of fact and order:

1. That the detailed survey report and viewers' report, as amended, has been made and other proceedings been completed under Minnesota Statutes 103E.; and

2. That the reports made or amended are complete and correct;
3. That the damages and benefits have been properly determined;
4. That the estimated benefits are greater than the total estimated cost, including damages;
5. That the use of separable maintenance as recommended by the engineer is hereby determined to be correct and approved;
6. That the proposed drainage project will be of public utility and benefit and will promote the public health; and
7. The proposed drainage project is practicable.

NOW, THEREFORE, it is hereby ordered by the Murray County Board of Commissioners, acting as Drainage Authority for Murray County Ditch #82, that the viewers' report attached as Exhibit A is hereby adopted and confirmed and the improvement to Murray County Ditch #82 as described in the final engineer's report is hereby established.

FURTHER, the engineer is to proceed with plans and specifications for bids which include perforated tile with a sock rather than non-perforated tile.

The foregoing resolution was duly seconded by Commissioner Thiner, and thereupon being put to a vote all members of the Board voted for its adoption.

Dated this 23rd day of July 2013.

MURRAY COUNTY BOARD OF COMMISSIONERS ACTING AS DRAINAGE AUTHORITY
FOR MURRAY COUNTY DITCH #82

By _____
Gerald Magnus, Its Chairperson

County Ditch 10

Commissioner Jens moved to adopt the following findings and orders as presented by Mr. Braegelmann:

Partial Abandonment and Authorized Outlet Judicial Ditch 10 – Lateral 37

STATE OF MINNESOTA
COUNTY OF MURRAY

In Re: Murray County Judicial Ditch No. 10, Murray County, Minnesota.

FINDINGS AND ORDER ON PETITION FOR OUTLET
AND FOR PARTIAL ABANDONMENT OF DRAINAGE SYSTEM

On July 23, 2013, this matter came on for a hearing before the Murray County Board of Commissioners, acting as the drainage authority for Murray County Judicial Ditch No. 10. The Board conducted a hearing and took testimony concerning the Petition for Outlet and for Partial Abandonment of Drainage System which was filed on or about June 14, 2013.

Based upon the file and proceedings herein, the Board hereby makes the following:

FINDINGS

1. Murray County Judicial Ditch No. 10 ("JD 10") is a public drainage system in Murray County, Minnesota.
2. The Murray County Board of Commissioners is the drainage authority for JD 10.
3. Petitioners own property in the vicinity of JD 10.

4. The JD 10 drainage system includes an open ditch in the NE $\frac{1}{4}$ of Section 20, and a lateral, designated as Lateral 37, in Sections 20 and 21, Township 106 North (Lime Lake Township), Range 40 West, Murray County, Minnesota.
5. The course of Lateral 37 commences at the open ditch in the NE $\frac{1}{4}$ of Section 20, then proceeds east to the NW $\frac{1}{4}$ of Section 21 where it branches and then continues east to the NE $\frac{1}{4}$ of Section 21 and south to the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Section 21.
6. Petitioners propose to construct a private tile line which will drain properties now drained by Lateral 37. The proposed private line will outlet directly into the open ditch of JD 10 near the point where Lateral 37 now outlets into the open ditch in the NE $\frac{1}{4}$ of Section 20.
7. All lands to be drained by the proposed private tile line currently are assessed benefits for JD 10 and currently are part of the JD 10 ditch system.
8. Lateral 37 is obsolete, plugged in areas and inadequate. Upon construction of the proposed private tile, Lateral 37 will no longer serve any substantial purpose to the lands which will be drained by the private tile.
9. Another public tile line, designated as "County Ditch 35," connects to Lateral 37 in the NE $\frac{1}{4}$ of Section 20, at a point approximately 800 feet east of the open ditch. From that point of connection, Lateral 37 carries water west from "County Ditch 35" to the open ditch of JD 10.
10. Upon construction of the proposed private tile line and connection of that private tile line to the open ditch of JD 10, the portions of Lateral 37 situated east of the point at which "County Ditch 35" connects to Lateral 37 will no longer serve any substantial purpose, will not be of public benefit and utility, and should be abandoned.
11. The open ditch of JD 10 has sufficient capacity and is an adequate outlet for the proposed private tile line.
12. Because Petitioners' properties already are part of the JD 10 drainage system, no outlet fee is necessary.
13. Proper notice of the hearing was provided by mail and publication.

ORDER

IT IS HEREBY ORDERED:

- a. The Petition for Outlet and for Partial Abandonment of Drainage System is hereby granted.
- b. Petitioners are hereby given permission to use the open ditch of JD 10 as the outlet for the proposed private tile line as described in the Petition.
- c. No outlet fee is required.
- d. The portions of Lateral 37 situated east of the point at which "County Ditch 35" connects to Lateral 37 shall be deemed abandoned upon completion of construction of the private tile line.
- e. The properties drained by the proposed private tile line and the requested outlet, as described at paragraph 12 of the Petition, shall retain the benefit amounts as currently established and such benefits shall be used for purposes of the benefit determination under Minn. Stat. § 103E.401, subd. 4.

