

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
DRAINAGE AUTHORITY MEETING
JANUARY 4, 2022

The Faribault County Board of Commissioners met at the Courthouse in the City of Blue Earth as the Faribault County Drainage Authority pursuant to the recess of the regular session on January 5, 2021. The following members were present: Bruce Anderson, Bill Groskreutz, Tom Loveall, John Roper, and Greg Young Commissioners. Auditor/Treasurer/Coordinator Darren Esser, Drainage Manager Merissa Lore, Drainage Project Manager Dustin Anderson, and Acting Clerk to the Board Sarah Van Moer also attended. Faribault County employees J. Blair, G. Paschke, and K. Anderson attended virtually.

The meeting was called to order by Chair Young.

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Anderson/Groskreutz motion carried unanimously to approve the agenda of January 4, 2022.

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No members of the public appeared during public comment.

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Loveall/Groskreutz motion carried unanimously to approve repair projects as shown below:

System	Repair #	Branch	Comm	Twp	Sec	Landowner	Problem/Proposed Work
CD52	21-157	Main	1	Blue Earth City	31	GEORGE LANE BUCK TRUST	Three sections of 28" tile have sunk in the hill
CD34	17-081	Main Trunk	5	Seely	36	PRESTEGARD FAM LTD PARTNERSHIP	Extend 6 inch outlet fix washout - Repair 8" CMP outlet pipe
CD34	21-160	Main	5	Kiester	31	EILERTSON,MARDELLE J	Piece of clay tile lodged in outlet pipe
CD34	21-161	Main	5	Kiester	31	GAYLE & MARY ASKE REV LIV TRST	Tile inlets are in poor shape.
CD34	21-162	Main	5	Kiester	31	EILERTSON,MARDELLE J	Tile outlet failure causing bank erosion
CD34	21-163	Branch 69	5	Kiester	31	ARLETTA HUMMER FAMILY PRTRNSHP	Tile inlet in road ditch is sucking a hole
CD74	21-158	Main	5	Brush Creek	31	OLSON,CHARLES J & KIMBERLY	Investigate Main Tile Elevation

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Loveall/Anderson motion carried unanimously to approve payment totaling \$ 28,563.06:

System	Repair #	Order	Branch	Comm Dist	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
CD17	17-245	6	Br C	1	Blue Earth City	9	BECKER,GARY & DIANE	Smooth and seed	2984	Customized Landscape and Design	100	\$623.00
CD44	19-247	1	20E	1	Rome	2	UBBEN,VERLYN J & MARLYS	Excavate tile for televising	4299	Osmundson Construction	100	\$2,072.88
CD52	21-166	1	Main	1	Blue Earth City	31	MYRON E CHILDS IRREVOC TRUST	Excavate tile for televising	4299	Osmundson Construction	100	\$4,532.12
CD8	21-021	1	H	1	Rome	06	NELSON,AUDREY	Excavate tile for televising	4299	Osmundson Construction	100	\$3,430.93
CD8	21-155	1	Main Trunk	1	Blue Earth City	26	KARK FAMILY FARMS LLP	Pull beaver dams	7678	Krueger Excavating of Albert Lea, LLC	100	\$875.00
JD7FM	21-156	1	Main	1	Elmore	07	DRAKE,KELLY R	Pull beaver dams	4299	Osmundson Construction	100	\$690.00
JCD301FF	21-167	1	Main	3	Clark	32	KIRSTYN E WEGNER REV LIV TR &	Build back berm	6701	Trevor Leland	100	\$7,400.00
CD20	21-007	2	Main	5	Walnut Lake	16	KALIS,WILLIAM S & LINDA K	Excavate tile for televising	6701	Trevor Leland	100	\$1,015.00
CD34	21-160	1	Main	5	Kiester	31	EILERTSON,MARDELLE J	Tile Outlet repair - 3	7678	Krueger Excavating of Albert Lea, LLC	100	\$4,020.67
CD34	21-163	1	Branch 69	5	Kiester	31	ARLETTA HUMMER FAMILY PRTRNSHP	Surface Intake	4299	Osmundson Construction	100	\$1,263.46
CD37	20-127	9	Main Trunk	5	Brush Creek	18	JOHN SABIN TRUST	Burn and bury tree pile	7678	Krueger Excavating of Albert Lea, LLC	100	\$1,665.00
CD74	21-158	1	Main	5	Brush Creek	31	OLSON,CHARLES J & KIMBERLY	Excavate tile for surveying	7678	Krueger Excavating of Albert Lea, LLC	100	\$975.00
											Total:	\$28,563.06

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Groskreutz/Loveall motion carried unanimously to approve pay application #1 for the JCD301FF Hueper Repair to Leland Drainage & Excavating for \$63,898.19.

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Loveall/Groskreutz motion carried unanimously to approve the following hearing meeting minutes from December 21, 2021:

CD60 Redetermination of Benefits & Damages Hearing

JD2F Redetermination of Benefits & Damages Hearing

CD514 Redetermination of Benefits & Damages & Repair Hearing

CD25A Redetermination of Benefits & Damages Hearing

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Anderson/Roper motion carried unanimously to approve the following hearing findings and orders:

Resolution 22-DA01-03 CD60 Open Ditch Repair Contract Acceptance Order

RESOLUTION

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #60, having received the engineer's report and notice that the contract for construction of the County Ditch #60 open ditch repair is complete pursuant to Minn. Stat. § 103E.555, having noticed and conducted a hearing on the petition, and based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for County Ditch #60, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #60.
2. On November 15, 2018, a petition for repair to County Ditch #60 was received by the drainage authority.
3. By order dated July 7, 2020, the drainage authority established the open ditch repair to County Ditch #60 in Faribault County.
4. Upon advertised bids, the drainage authority awarded a contract for construction to Brunz Construction Company, Inc. on October 6, 2020.
5. In the proceedings, damages were awarded based on the impact construction of the project had on adjacent properties.
6. Upon completion of construction of the County Ditch #60 open ditch repair, the project engineer inspected the construction and prepared a report to the drainage authority showing the contract

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price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract.

7. The engineer has concluded that the work was performed according to the plans and specifications for the project, included resloping ditch banks resulting in permanent easement damages that need to be paid, temporary damages have been determined and paid for the construction and future maintenance of the system, and was performed by the contractor in a timely and workmanlike manner by the contractor.
8. The downstream portion County Ditch #60 open ditch was resloped due to steep, eroding banks. 0.9 acres of additional permanent damages need to be acquired at the Viewer's determined damage rate during the recent redetermination of benefits, \$6,877 per acre.
9. The engineer has certified that the original contract was \$152,438.50 with an additional \$56,539.73 of change orders for a final contract amount and total amount paid to the contractor of \$208,978.23. The change orders were due to an increase in the price of corrugated metal pipe, additional side inlet pipes near the culvert replacements, and additional bank resloping.
10. The engineer has certified and recommended a final payment of \$10,448.91.
11. Upon receipt of the engineer's report, the auditor set a time and location for a hearing on the report, gave notice of the hearing by publication, by mail to affected landowners and by posting at the meeting place at least ten days before the hearing, and included an invitation in the notice that a party objecting to the acceptance of the contract may appear and be heard.
12. No public comment was made.
13. The contract has been completed in accordance with the plans and specifications. The engineer filed the final closeout report and as-built drawing of the constructed project as **Exhibit A** on November 15, 2021.
14. At the close of the public comment, Commissioner Young moved to direct staff to prepare Findings and an Order consistent with the proceedings; that the draft Findings and Order be written to confirm the contract has been completed in accordance with the plans and specifications, release retainage and liens related to the project, and issue the final payment of \$10,448.91. Commissioner Loveall seconded, and the motion carried.
15. Commissioner Young moved to direct staff to make payments of the damages as indicated in **Exhibit B** and direct recording of the Order to reflect the acquisition upon payment. Commissioner Groskreutz seconded, and the motion carried.

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 #60, hereby orders as follows:

- A. The contract herein is accepted as complete.
- B. Any retainage under the contract shall be released to the contractor upon proof of release of all liens of contractors or materialmen related to the project.
- C. The County Auditor is ordered to pay the retainage of \$10,448.91.
The County Auditor is ordered to pay 0.9 acres of additional permanent easement damages due to bank resloping at a rate of \$6,877 per acre, totaling \$6,189.30.

Resolution 22-DA02-04 JD2F Open Ditch Repair Contract Acceptance Order

R E S O L U T I O N

The Faribault County Board of Commissioners, sitting as the drainage authority for Judicial Ditch #2, having received the engineer's report and notice that the contract for construction of the Judicial Ditch #2 open ditch repair is complete pursuant to Minn. Stat. § 103E.555, having noticed and conducted a hearing on the petition, and based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for Judicial Ditch #2, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for Judicial Ditch #2.
2. On July 31, 2019, a petition for repair to Judicial Ditch #2 was received by the drainage authority.
3. By order dated July 7, 2020, the drainage authority established the open ditch repair to Judicial Ditch #2 in Faribault County.
4. Upon advertised bids, the drainage authority awarded a contract for construction to Brunz Construction Company, Inc. on October 6, 2020.
5. Upon completion of construction of the Judicial Ditch #2 open ditch repair, the project engineer inspected the construction and prepared a report to the drainage authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract.
6. The engineer has concluded that the work was performed according to the plans and specifications for the project, was performed within the right of way for which temporary damages have been determined and paid for the construction and future maintenance of the system, and was performed by the contractor in a timely and workmanlike manner by the contractor.

7. The engineer has certified that the original contract was \$209,075.00 with an additional \$34,431.24 of change orders for a final contract amount and total amount paid to the contractor of \$243,506.24. The change orders were due to the need to replace a private ditch crossing impacted by the road crossing replacement, riprap crossing protection, road right-of-way side inlet replacement, and additional tile outlet repairs.
8. The engineer has certified and recommended a final payment of \$12,175.31.
9. Upon receipt of the engineer's report, the auditor set a time and location for a hearing on the report, gave notice of the hearing by publication, by mail to affected landowners and by posting at the meeting place at least ten days before the hearing, and included an invitation in the notice that a party objecting to the acceptance of the contract may appear and be heard.
10. No public comment was made.
11. The contract has been completed in accordance with the plans and specifications. The engineer filed the final closeout report and as-built drawing of the constructed project as **Exhibit A** on November 15, 2021.
12. At the close of the public comment, Commissioner Loveall moved to direct staff to prepare Findings and an Order consistent with the proceedings; that the draft Findings and Order be written to confirm the contract has been completed in accordance with the plans and specifications, release retainage and liens related to the project, and issue the final payment of \$12,175.31. Commissioner Anderson seconded, and the motion carried.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for Judicial Ditch #2, hereby orders as follows:

- A. The contract herein is accepted as complete.
- B. Any retainage under the contract shall be released to the contractor upon proof of release of all liens of contractors or materialmen related to the project.
- C. The County Auditor is ordered to pay the retainage of \$12,175.31.

RESOLUTION

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #514, having received the engineer's report and notice that the contract for construction of the County Ditch #514 Branch S Improvement Project is complete pursuant to Minn. Stat. § 103E.555, having noticed and conducted a hearing on the petition, and based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for County Ditch #514, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #514.
2. On April 30, 2019, the Drainage Authority received an improvement petition for County Ditch #514.
3. By order dated July 30, 2020, the drainage authority established the improvement to Branch S of County Ditch #514 in Faribault County.
4. Upon solicited bids, the drainage authority awarded the project to Leland Drainage and Excavating on September 15, 2020.
5. Upon completion of construction of the County Ditch #514 Branch S Improvement, the project engineer inspected the construction and prepared a report to the drainage authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract.
6. The engineer has concluded that the work was performed according to the plans and specifications for the project, was performed within the right of way for which temporary damages have been determined and paid for the construction and future maintenance of the system, and was performed by the contractor in a timely and workmanlike manner by the contractor.
7. The engineer has certified that the final contract amount and total amount paid to the contractor was \$37,379.00.
8. The engineer has certified and recommended final closeout of the project.
9. Upon receipt of the engineer's report, the auditor set a time and location for a hearing on the report, gave notice of the hearing by publication, by mail to affected landowners and by posting at the

meeting place at least ten days before the hearing, and included an invitation in the notice that a party objecting to the acceptance of the contract may appear and be heard.

10. 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. Dustin Anderson, Faribault County Project Manager, made comments on behalf of a landowner that was unable to attend the hearing but passed along comments on the project. Landowner: Raymond Hornke, Pilot Grove Township, 6315 350th Ave. Blue Earth, MN 56013:

Presented questions about the responsible party to maintain the tile outlet channel in the newly constructed Benz Wetland Bank as well as concerns with surface water flow and erosion creating sediment accumulation in the channel requiring frequent maintenance.

The Drainage Authority has the right to maintain the outlet channel for Branch S. The outlet channel has been over excavated with hopes of reduce maintenance. There was filling and grading that occurred in the area and the area was seeded. The engineer hopes once the vegetation is established there will be very little erosion in the area. Staff will monitor the area and complete further grading and stabilization if necessary.

11. The contract has been completed in accordance with the plans and specifications. The engineer filed the final closeout report and as-built drawing of the constructed project as **Exhibit A** on November 15, 2021.
12. At the close of the public comment, Commissioner Young moved to direct staff to prepare Findings and an Order consistent with the proceedings; that the draft Findings and Order be written to confirm the contract has been completed in accordance with the plans and specifications and release liens related to the project. Commissioner Anderson seconded, and the motion carried.

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 #514, hereby orders as follows:

- A. The contract herein is accepted as complete.
- B. Any retainage under the contract shall be released to the contractor upon proof of release of all liens of contractors or materialmen related to the project.

RESOLUTION

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #25A, having received the engineer's report and notice that the contract for construction of the County Ditch #25A repair is complete pursuant to Minn. Stat. § 103E.555, having noticed and conducted a hearing on the petition, and based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for County Ditch #25A, adopts the following Findings and Order:

Findings:

16. The Faribault County Board of Commissioners is the drainage authority for County Ditch #25A.
17. On October 28, 2018, a petition for repair to County Ditch #25A was received by the drainage authority.
18. By order dated January 22, 2021, the drainage authority established the repair to County Ditch #25A in Faribault County.
19. Upon advertised bids, the drainage authority awarded a contract for construction to Krueger Excavating of Albert Lea, LLC on April 20, 2021.
20. The project involved replacing 800 linear feet of tile with the construction of an open ditch. Viewers were appointed to determine damages from the project. In the proceedings, damages were awarded based on the impact construction of the project had on adjacent properties.
21. Upon completion of construction of the County Ditch #25A repair, the project engineer inspected the construction and prepared a report to the drainage authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract.
22. The engineer has concluded that the work was performed according to the plans and specifications for the project, the project resulted in permanent easement damages that need to be paid, temporary damages have been determined and paid for the construction and future maintenance of the system, and was performed by the contractor in a timely and workmanlike manner by the contractor.
23. The Viewers determined 2.37 acres of permanent damage easement for the open ditch construction and 0.7 acres for the buffer strip easement acquisition. The Viewers determined \$6,752 per acre damage rate. Damages total \$20,728.64 on the project.
24. The engineer has certified that the original contract was \$108,500.00. There were no change orders on the project. The total amount paid to the contractor was \$107,438.92, \$1,061.08 under the contract value.
25. The engineer has certified and recommended a final payment of \$8,601.95.
26. Upon receipt of the engineer's report, the auditor set a time and location for a hearing on the report, gave notice of the hearing by publication, by mail to affected landowners and by posting at the

meeting place at least ten days before the hearing, and included an invitation in the notice that a party objecting to the acceptance of the contract may appear and be heard.

27. 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. Kerry Doyle, Walnut Lake Township, 49582 140th St. Easton, MN 56025:

Presented questions about if the most recent assessments covered for cost for the project or if more assessments are needed and urged the Board to not pay any more money on the failed previous contract to Hodgman Drainage Company.

The payable 2022 assessment received in November 2021 does cover the cost of the project and bring the CD25A account to a zero-dollar balance. Any maintenance needed in the future would require additional assessments. There is an unpaid invoice to Hodgman Drainage Company around \$159,600. The Board has not released further payment on the unpaid balance and does not plan.

- b. Brenda Legred, Walnut Lake Township, 5500 Olympic Dr. Suite H105 Gig Harbor, WA 98335:

Presented questions about timing of assessments and notification prior to projects occurring.

Staff will reach out after the meeting to discuss how projects happen and how to be informed on projects and proceedings. If there is an assessment levied on the system, there can be multi-year assessments or single year assessments depending on the amount needed. Multi-year assessments (payable over several years) notifications are mailed out in November each year. Single year assessments will show up on the tax statements received in the mail each year.

28. The contract has been completed in accordance with the plans and specifications. The engineer filed the final closeout report and as-built drawing of the constructed project as **Exhibit A** on October 12, 2021.
29. At the close of the public comment, Commissioner Anderson moved to direct staff to prepare Findings and an Order consistent with the proceedings; that the draft Findings and Order be written to confirm the contract has been completed in accordance with the plans and specifications, release retainage and liens related to the project, and issue the final payment of \$8,601.95. Commissioner Young seconded, and the motion carried.
30. Commissioner Anderson moved to direct staff to make payments of the damages as indicated in **Exhibit B** and direct recording of the Order to reflect the acquisition upon payment. Commissioner Loveall seconded, and the motion carried.

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 #25A, hereby orders as follows:

- D. The contract herein is accepted as complete.

- E. Any retainage under the contract shall be released to the contractor upon proof of release of all liens of contractors or materialmen related to the project.
- F. The County Auditor is ordered to pay the retainage of \$8,601.95.
- G. The County Auditor is ordered to pay 2.37 acres of permanent easement damages for the open ditch and 0.7 acres for the buffer strip easement at a rate of \$6,752 per acre, totaling \$20,728.64.

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Groskreutz/Loveall motion carried unanimously to appoint commissioners from district 1 and district 5 to the Iowa Drainage Agreement Committee to start negotiating long term drainage system maintenance agreements with Iowa counties.

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Groskreutz/Loveall motion carried unanimously to award the CD86 open ditch repair project to Mensing Construction for the low bid of \$40,834.46. One other bid was received from Krueger Excavating for \$43,750.00.

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Roper/Loveall motion carried unanimously to award the CD40 tile re-route project to Mensing Construction for the low bid of \$33,040.02. Three other bids were received from Leland Drainage & Excavating for \$34,776.00, Kregel Brothers Inc. for \$40,152.00, and Hodgman Drainage for \$46,540.00.

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Loveall/Anderson motion carried unanimously to table setting the 2022 crop damage rates until March.

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Loveall/Roper motion carried unanimously to set the 2022 beaver bounty at \$50 per tail.

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Anderson/Roper motion carried unanimously to use the tilt sensor option through Frontier Precision for CD26 tile replacement railroad track monitoring.

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Anderson/Loveall motion carried unanimously to approve the following inspection reports and file as part of the legal system record:

System	Comm. District	Report Notes
CD5	1 & 4	Beaver issues near the outlet (trees present), road crossings have sediment built up, multiple tile outlet & side inlets are failing, portions of the open ditch appear to need to be cleaned
CD10	4	Head wall where main tile outlets is failing, heavy weed pressure in areas, private open ditch appears to be a large sediment source to the public open ditch
CD11	4	Suspicious wet area in the pasture north of 160th, tile could be broken
CD14	1 & 4	Portions of the old main appear to be breaking down in the ditch bank causing sloughing in areas, ditch bottom cleaning appears to be needed in areas, some tile outlet & side inlets failing
CD16	4	Waterway over the main line tile should be monitored
CD19	4	Outlet needs investigated & tile near 160th St. (suspected failure)
CD25	1 & 5	Good condition
CD34	5	Tile outlet needs repaired, surface intakes on the tile are in poor condition, outlet from IA is causing erosion
CD56	4	Good condition
JD6F	1 & 4	Battled beavers the past few years, ditch cleaning needed, failing tile outlets, side inlets, and culverts observed. Surveyed in 2021. Staff repair report and system meeting in the near future.

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Staff reports were presented.

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The Faribault County Drainage Authority was recessed to January 18, 2022.

Greg Young, Chair

Sarah Van Moer, Acting Clerk to the Board