

FARIBAULT COUNTY  
BOARD OF COMMISSIONERS  
OFFICIAL PROCEEDINGS  
DRAINAGE AUTHORITY MEETING  
AUGUST 1, 2023

The Faribault County Board of Commissioners met at the Courthouse in the City of Blue Earth as the Faribault County Drainage Authority at 1:00 p.m. on August 1<sup>st</sup>, 2023. The following members were present: Tom Loveall, Bruce Anderson, Bill Groskreutz, John Roper, and Greg Young Commissioners. Engineer/Coordinator Mark Daly, Drainage Manager Merissa Lore, Auditor/Treasurer Jessica Blair, Drainage Project Manager Dustin Anderson, Acting Clerk to the Board Sarah Van Moer, and member of the public K. Mertens also attended. Participating virtually were Faribault County staff S. Hauskins, B. Rauenhorst, S. Robbins, and L. Mehrhof.

The meeting was called to order by Chair Anderson.

\* \* \* \* \*

Young/Loveall motion carried unanimously to approve the agenda of August 1<sup>st</sup>, 2023.

\* \* \* \* \*

No public comment was received.

\* \* \* \* \*

Groskreutz/Loveall motion carried unanimously to approve payment of drainage voucher bills totaling \$7,791.00.

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

System	Repair #	Branch	Comm Dist	Twp	Sec	Landowner	Problem/Proposed Work
CD5	23-085	Main Trunk	1	Emerald	09	SCHEWE,LESLIE J & JOAN H	Tile outlet repair
CD21	23-087	Main Open	2	Verona	35	HAGEDORN,HARVEY & LEOLA	Repair sloughs
JCD214MF	23-088	Branch T	2	Pilot Grove	04	MORE,DUANE D & VIVIAN	Side Inlet repair
JD2MF	23-025	Main	2	Jo Daviess	18	HANNAMAN,ROSCOE & SHIRLEY	Slough
JD6F	23-083	Branch B tile	4	Barber	34	FRANKE,IRMA FRANKE & GARY	Tile outlet needs repair

\* \* \* \* \*

Groskreutz/Loveall motion carried unanimously to approve payment totaling \$8,940.61:

System	Repair #	Order	Branch	Comm Dist	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
JD13F	22-133	1	A+305	1	Rome	27	JUDITH K RIECKHOFF QTIP TRUST	Tile Outlet	4299	Osmundson Construction	100	\$3,506.85
JD6F	23-083	1	Branch B tile	4	Barber	34	FRANKE,IRMA FRANKE & GARY	Tile Outlet	4299	Osmundson Construction	100	\$3,914.40
JD9FBE	23-079	1	Br 32	4	Lura	19	DENNIS G WHITNEY LE ETAL	Blowout	4299	Osmundson Construction	100	\$799.36
CD74	22-016	1	Main	5	Brush Creek	31	OLSON,CLAIRE D & DIANE S	Mow/spray	7678	Krueger Excavating of Albert Lea, LLC	100	\$720.00

Total: **\$8,940.61**

\* \* \* \* \*

08-01-23

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Young/Roper motion carried unanimously to approve CD8/42 Repair change order #1 for additional tile outlets, grub fence, and riprap for \$15,422.50, and pay application #1 to Leland Drainage & Excavating totaling \$118,388.21.

\* \* \* \* \*

Groskreutz/Loveall motion carried unanimously to cancel the CD64 expanded two-stage ditch cost share contract with the SWCD.

\* \* \* \* \*

Roper/Groskreutz motion carried unanimously to approve the CD72 ASI cost share contract amendment to increase funds and approve the cost-share contract voucher for \$23,156.94.

\* \* \* \* \*

Young/Roper motion carried unanimously to approve the CD64 rock chute re-build cost share contract amendment and approve the cost share contract voucher for \$14,657.40.

\* \* \* \* \*

Loveall/Young motion carried unanimously to approve the hearing meeting minutes from July 12, 2023, for the CD92 Redetermination of Benefits and Damages Hearing, the CD27 Redetermination of Benefits Hearing, the CD36 Redetermination of Benefits Hearing, and the CD64 Open Ditch Repair Final Acceptance Hearing.

\* \* \* \* \*

Roper/Groskreutz motion carried unanimously to approve the following hearing Findings & Orders from hearings held July 12, 2023:

Resolution 23-DA33-67 for CD92:

## **R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #92, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on August 3<sup>rd</sup>, 2021; having appointed viewers to redetermine and report the benefits and damages; having received the viewers' report; having followed proper notice requirements in Minn. Stat. § 103E.351; and having held a public hearing and followed all requirements of chapter 103E, based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #92, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #92.
2. On August 3<sup>rd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #92 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, and Kendall Langseth were appointed as viewers.

3. The viewers held informational meetings on January 20<sup>th</sup>, 2022 and April 11<sup>th</sup>, 2023, after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on June 5<sup>th</sup>, 2023, for all property affected by the drainage system and filed their report with the drainage authority.
5. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
6. The drainage authority on June 6<sup>th</sup>, 2023, by order, set a public hearing for review of the viewers' report on July 12<sup>th</sup>, 2023, which is within 30 days after the property owners' reports were mailed.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Faribault County.
8. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the County Auditor provided notice by mail of the time and location of the final hearing to all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits and damages on July 12<sup>th</sup>, 2023, at 12:30pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
13. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of County Ditch #92.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including grass strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.

15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
20. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
21. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.
22. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
23. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
24. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
25. The viewers' account of work has been filed with the drainage authority.
26. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits, and benefitted areas.
27. The viewers' report is attached as **Exhibit A**.

28. The benefits and damages statement is attached as **Exhibit B**.

29. 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. Lennis Mathews, Elmore Township, 5452 400<sup>th</sup> Ave. Blue Earth, MN 56013

Presented questions about the damages listed in the Viewers' report and details of what the damages are for, when payments are made, and assessment timing.

*The damages on the Viewers' Report are for the buffer strip and access right-of-way easements. Damages payments will go out in September 2023. In order to receive the damage payment, a W-9 has to be completed and on file in the Auditor's Office. These will be mailed to landowners with a letter explaining the process. Assessments letters will go out in the mail in November 2023 and payments will start on 2024 tax statements if not paid in full by the end of 2023. The assessment will be over approximately 5 years and will be under Special Assessment portion of your tax statement labeled CD92. There is a 4% interest charge on any unpaid assessments after the end of 2023.*

Lennis further presented questions about changes in the numbers on the Viewers' Report between the informational meeting and the hearing.

*The Viewers gather information from landowners through the informational meetings and changes are made based on that information such as land tiled in a different direction. The copy mailed out for the today's hearing is the final draft.*

- b. Anthony Zierke, Elmore Township, 37600 40<sup>th</sup> St. Elmore, MN 56027

Presented an update on the project he petitioned the Drainage Authority for after the project was brought up by a commissioner. 800 linear feet of open ditch was petitioned to be replaced by tile at the petitioner's expense. Anthony stated the project hasn't been completed and he asked the Drainage Authority for an extension which was approved. He is waiting on prices and fill to see if they proceed with the project.

*The Viewers have not awarded damages to his parcel as a result of the pending petition. If the project does not get built by the sunset clause of the order, the Drainage Authority could take action to pay damages based on easement values designated in the redetermination of benefits.*

Anthony stated he understands that easement damages are not being issued at this time and he is fine with it.

30. County Ditch #92 account #670 was for a lateral to County Ditch #92 petitioned in 1974. The project is complete and assessed making the account no longer necessary.

31. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, and confirm the damages as presented; consolidate accounts on the system; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits, Confirming Damages, and Directing Payment at the Board's regular meeting on August 1<sup>st</sup>, 2023. Commissioner Loveall seconded and the motion carried.

32. Commissioner Roper moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in September 2023. Commissioner Young seconded and the motion carried.
33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
- a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
  - b. that the viewers' report is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
  - d. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits and damages statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code; and
  - e. that the acquisition of grass buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

**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 #92, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #92, the viewers' report attached hereto as **Exhibit A**, and the benefits and damages statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #92.
- D. The County Auditor shall make the buffer easement payments in September 2023 in accordance with the Viewers' Report.
- E. The County Auditor shall ensure all accounts for past projects on County Ditch #92 are consolidated with account #669 main County Ditch #92 account for more efficient accounting.

Resolution 23-DA34-68 for CD27:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #27, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on August 3<sup>rd</sup>, 2021; having appointed viewers to redetermine and report the benefits; having received the viewers' report; having followed proper notice requirements in Minn. Stat. § 103E.351; and having held a public hearing and followed all requirements of chapter 103E, based on the record and proceedings, the

Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #27, adopts the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #27.
2. On August 3<sup>rd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #27 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, and Kendall Langseth were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on August 13<sup>th</sup>, 2021.
4. The viewers held informational meetings on January 20<sup>th</sup>, 2022 and April 13<sup>th</sup>, 2023, after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on June 3<sup>rd</sup>, 2023, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority on June 6<sup>th</sup>, 2023, by order, set a public hearing for review of the viewers' report on July 12<sup>th</sup>, 2023, which is within 30 days after the property owners' reports were mailed.
8. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor provided notice by mail of the time and location of the final hearing to all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
11. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
12. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
13. The drainage authority held a public hearing on the redetermination of benefits on July 12<sup>th</sup>, 2023, at 2:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Kendall Langseth, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Langseth further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit;



and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of County Ditch #27.

15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
17. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
18. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered, and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
26. The viewers' account of work has been filed with the drainage authority.

27. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
28. The viewers' report is attached as **Exhibit A**.
29. The benefits statement is attached as **Exhibit B**.
30. No public comment was received.
31. County Ditch #27 account #579 was for an improvement of Branch 39 petitioned in 1967. The project is complete and assessed making the account no longer necessary.
32. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; consolidate accounts on the system; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on August 1<sup>st</sup>, 2023. Commissioner Loveall seconded, and the motion carried.
33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
  - a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
  - b. that the viewers' report is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
  - d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**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 #27, hereby orders as follows:

- A. The redetermined benefits of County Ditch #27, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #27.
- D. The County Auditor shall ensure all accounts for past projects on County Ditch #27 are consolidated with account #578 main County Ditch #27 account for more efficient accounting.

## **RESOLUTION**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #36, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on August 3<sup>rd</sup>, 2021; having appointed viewers to redetermine and report the benefits; having received the viewers' report; having followed proper notice requirements in Minn. Stat. § 103E.351; and having held a public hearing and followed all requirements of chapter 103E, based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #36, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #36.
2. On August 3<sup>rd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #36 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, and Kendall Langseth were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on August 13<sup>th</sup>, 2021.
4. The viewers held informational meetings on January 20<sup>th</sup>, 2022 and April 13<sup>th</sup>, 2023, after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on June 3<sup>rd</sup>, 2023, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority on June 6<sup>th</sup>, 2023, by order, set a public hearing for review of the viewers' report on July 12<sup>th</sup>, 2023, which is within 30 days after the property owners' reports were mailed.
8. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor provided notice by mail of the time and location of the final hearing to all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
11. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.

12. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
13. The drainage authority held a public hearing on the redetermination of benefits on July 12<sup>th</sup>, 2023, at 2:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Kendall Langseth, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Langseth further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of County Ditch #36.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
17. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
18. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered, and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.

24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
26. The viewers' account of work has been filed with the drainage authority.
27. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
28. The viewers' report is attached as **Exhibit A**.
29. The benefits statement is attached as **Exhibit B**.
30. No public comment was received.
31. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on August 1<sup>st</sup>, 2023. Commissioner Young seconded, and the motion carried.
32. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
  - a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
  - b. that the viewers' report is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
  - d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**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 #36, hereby orders as follows:

- A. The redetermined benefits of County Ditch #36, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #36.

Resolution 23-DA36-70 for CD64:

## **R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #64, having received the engineer's report and notice that the contract for construction of the County Ditch #64 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 #64, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #64.
2. On February 15<sup>th</sup>, 2018, a petition for repair to County Ditch #64 was received by the drainage authority.
3. By order dated March 28<sup>th</sup>, 2022, the drainage authority established the open ditch repair to County Ditch #64 in Faribault County.
4. Upon advertised bids, the drainage authority awarded a contract for construction to Krueger Excavating of Albert Lea, LLC on June 21<sup>st</sup>, 2022.
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 #64 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.
7. The engineer has concluded that the work was performed according to the plans and specifications for the project, included resloping ditch banks and two-stage channel construction 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 #64 open ditch was resloped due to steep, eroding banks and a two-stage channel created for 2,100 linear feet to create a more stable channel and allow for

lower flood elevations and velocities. 1.9 acres of additional permanent damages need to be acquired at the Viewer's determined damage rate during the recent redetermination of benefits, \$7,725 per acre.

9. The engineer has certified that the project was broke into 3 bid packages and the original contracts for each bid package are as follows: bid package 1 contract amount of \$119,124.25 with an additional \$5,624 of change orders for a final contract amount of \$124,748.25 and total amount paid to the contractor of \$111,680.00; bid package 2 contract amount of \$112,195.00 with an additional \$35,762.05 of change orders for a final contract amount of \$147,957.05 and total amount paid to the contractor of \$122,890.05; and bid package 3 contract amount of \$24,190.00 with a total amount paid to the contractor of \$36,075.00. The change orders were due to replacement of a side inlet that was out in the field and disturbed during construction, additional tree and brush removal, bank leveling, installation of a 12" alternative side inlet, grading, rock chute, and crossing repair.
10. The engineer has certified and recommended a final payment of \$5,584 for bid package 1, \$6,144.50 for bid package 2, and \$1,803.75 for bid package 3.
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 June 7<sup>th</sup>, 2023.
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 payments of \$5,584, \$6,144.50, and \$1,803.75. Commissioner Groskreutz 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 #64, 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 amounts of \$5,584, \$6,144.50, and \$1,803.75.
- D. The County Auditor is ordered to pay 1.9 acres of additional permanent easement damages due to bank resloping at a rate of \$7,725 per acre, totaling \$14,677.50.

\* \* \* \* \*

Staff reports were presented.

\* \* \* \* \*

Young/Groskreutz motion carried unanimously to authorize Drainage Manager Merissa Lore to sign hearing meeting minutes.

\* \* \* \* \*

Loveall/Young motion carried unanimously to adjourn.  
The Faribault County Drainage Authority was recessed to August 15, 2023.

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Bruce Anderson, Chair

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Sarah Van Moer, Acting Clerk to the Board