

FARIBAULT COUNTY  
BOARD OF COMMISSIONERS  
OFFICIAL PROCEEDINGS  
DRAINAGE AUTHORITY MEETING  
FEBRUARY 2, 2021

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 February 2, 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, and Acting Clerk to the Board Clara Vereide also attended.

The meeting was called to order by Chair Roper.

\* \* \* \* \*

Groskreutz/Young motion carried unanimously to approve the agenda of February 2, 2021.

\* \* \* \* \*

No member of the public appeared during public comment.

\* \* \* \* \*

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

System	Repair #	Branch	Comm	Twp	Sec	Landowner	Problem/Proposed Work
CD40	21-004	Main Trunk	1	Emerald	23	Jean Dahl Et Al	2 tile holes
CD40	21-005	Main	1	Emerald	23	Jean Dahl Et Al	Outlet of Main is under water. Need to clean the outlet channel
JD26FM	21-003	Main	2	Verona	17	Seetin Family Partnership	Replace outlet pipe to Center Creek
JD1F	20-068	Main	4	Barber	5	Cheryl K Claude	Grind trees, pull beaver dam, armor tile outlet
CD20	21-007	Main	5	Walnut Lake	16	William S & Linda K Kalis	Locate the Main Tile in the vicinity of the private ditch/waterway

**THIS SECTION INTENTIONALLY LEFT BLANK**

\* \* \* \* \*

Anderson/Young motion carried unanimously to hold payment to Brunz Construction on CD 55 until resolution of Volz damage request.

Loveall/Anderson motion carried unanimously to approve payment totaling \$ 73,718.49 :

System	Repair #	Order	Branch	Comm	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
CD40	21-004	1	Main Trunk	1	Emerald	23	Jean Dahl Et Al	2 Blowouts	7678	Krueger Excavating of Albert Lea	100	\$ 1,770.00
CD46	19-234	1	Main	1	Emerald	23	Kevin Steinhauer	Clean Out, Grind Trees, level old spoils, tile outlet repair	7678	Krueger Excavating of Albert Lea	100	\$ 11,165.00
CD92	17-256	1	Main Trunk	1	Elmore	15	Jeanette Fenske	Tree removal	6701	Trevor Leland	100	\$ 540.00
CD3	20-086	1	Main	4	Lura	16	Bruce L Halverson	Bridge Inspection	481	Faribault Co. Public Works	100	\$ 1,703.88
CD62	18-174	3	Bioreactors	4	Prescott	30	Neal & Brenda Mensing	Clean out sediment traps	7086	Garlick's Water Systems	100	\$ 800.00
JD1F	20-068	1	Main	4	Barber	5	Cheryl K Claude	Beaver Dam, Grind trees, Armor Tile Outlet,	7678	Krueger Excavating of Albert Lea	100	\$ 5,000.00
JD1F	20-188	2	Branch 3	4	Lura	30	Paul & Michelle Whitney	Dip out cattails W of CR13	7678	Krueger Excavating of Albert Lea	100	\$ 380.00
CD20	21-007	1	Main	5	Walnut Lk	16	William S & Linda K Kalis	Locate the Main Tile in vicinity of private waterway	6701	Trevor Leland	100	\$ 450.00
CD64	21-006	1	Main	5	Kiester	7	Scott Lorenz	Replace Crossing	6701	Trevor Leland	100	\$ 48,433.85
JD13F	18-072	1	Main	5	Seely	21	CaroleeGoette Revoc Trust	Surface Intake	6701	Trevor Leland	100	\$ 1,587.88
JD13F	19-152	2	Main Open	5	Seely	28	Ann Helgeson	Slough, Surface Intake	6701	Trevor Leland	100	\$ 1,887.88
											Total	\$ 73,718.49

02-02-21

\* \* \* \* \*

Anderson/Young motion carried unanimously to approve the quote from G&S Drainage & Excavating of \$19,850.00 for the CD79 partial main tile replacement.

\* \* \* \* \*

Loveall/Groskreutz motion carried unanimously to approve the following inspection reports and make them part of the legal record: JCD201MF, JD10F, JD11FBE, JD12FBE, JD13F, JD21F, JD22F, JD24BEFM, JD25FM, JD26FM, and JD27FM.

\* \* \* \* \*

Loveall/Groskreutz motion carried unanimously to approve Resolution 21-DA01-07 an order to set the CD83 final redetermination of benefits and damages hearing for February 25, 2021 at 9:00 a.m. at the Golden Bubble. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

## **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 83.

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 83.
2. On January 7, 2020, the Drainage Authority ordered a redetermination of benefits and damages for County Ditch 83.
3. The Viewers held an informational meeting on August 19, 2020 after notice to all landowners and public authorities.
4. The Viewers' report was filed with the Faribault County Auditor January 15, 2021.
5. The Viewers will hold a second informational meeting on February 5, 2021 after notice is given by mail.
6. The Faribault County Board of Commissioners met on January 19, 2021 in regular session to determine the date, time, and location for a final hearing on the project.
7. Pursuant to Minn. Stat. § 103E.325, subd. 3 a final hearing must be noticed by publication, posting, and mail.

### **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 83 hereby orders as follows:

- A. This order replaces the order passed on January 19, 2021. A final hearing on the Viewers' Report shall be moved to February 25, 2021 at 9:00 a.m. at the Golden Bubble, 11575 State Hwy 22 Wells, MN 56097.
- B. The Auditor shall publish notice of the final hearing once per week for three successive weeks in a newspaper of general circulation in the area of the proposed project.
- C. The Auditor shall post a printed copy of the final hearing notice at least three weeks before the date of the final hearing at the front door of the courthouse.

02-02-21

- 26-

- D. Within one week after the first publication of notice, the Auditor shall give notice by mail of the time and location of the final hearing to all property owners and others affected by the proposed drainage project and listed in the viewers' report.

\* \* \* \* \*

Loveall/Anderson motion carried unanimously to approve Resolution 21-DA02-08 an order to set the CD10 continued final lateral hearing for February 25, 2021 at 9:45 a.m. at the Golden Bubble. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

## **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for final lateral hearing to County Ditch 10.

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 10.
2. On January 23, 2017, a petition for lateral to County Ditch 10 was received by the drainage authority.
3. On February 7, 2017, the drainage authority adopted findings and an order accepting the petition and appointing ISG as the project engineer. ISG was ordered to prepare a preliminary survey and file a preliminary survey report with the drainage authority.
4. The preliminary survey report with an addendum was filed with the Faribault County Auditor on February 5, 2018.
5. On April 10, 2019, the drainage authority noticed and held a preliminary hearing on the preliminary survey report. The drainage authority adopted findings and an order to continue the hearing to allow further legal counsel to be present.
6. On October 7, 2019, the drainage authority noticed and held the continued preliminary hearing on the preliminary survey report. The drainage authority adopted findings and an order accepting the preliminary survey report, ordering the engineer to proceed with the detailed survey, and appointing three viewers to determine benefits and damages.
7. On November 11, 2020, the engineer filed the detailed survey report with the Faribault County Auditor. A copy of the detailed survey report was mailed to the commissioner of natural resources for review.
8. On November 13, 2020, the viewers filed the viewers' report with the Faribault County Auditor.
9. Within 30 days after the viewers' report was filed, the Faribault County Auditor will create a property owners' report from the information in the viewers' report in conformance with the requirements of Minn. Stat. § 103E.323, subd. 1. A copy of the property owners' report was mailed to each owner of property affected by the proposed drainage project and an affidavit of mailing is on file with the drainage authority.
10. Pursuant to Minn. Stat. § 103E.325, subd. 3 the final hearing must be noticed by publication, posting, and mail.
11. A hearing was held on December 18, 2020 and continued to a date to be determined.

### **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 10, hereby orders as follows:

02-02-21

- 27 -

- A. This order replaces the order passed on January 19, 2021. The continued final hearing on the detailed survey report and viewers' report shall be moved to February 25, 2021 at 9:45 a.m. at the Golden Bubble, 11575 State Hwy 22 Wells, MN 56097.
- B. The Faribault County Auditor shall publish notice of the final hearing once per week for three successive weeks in a newspaper of general circulation in the area of the proposed project.
- C. The Faribault County Auditor shall post a printed copy of the final hearing notice for each affected county at least three weeks before the date of the final hearing at the front door of the courthouse in each county.

Within one week after the first publication of notice, the Faribault County Auditor shall give notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the proposed drainage project and listed in the detailed survey report and the viewers' report.

\* \* \* \* \*

Loveall/Anderson motion carried unanimously to approve Resolution 21-DA03-09 to adopt the following findings and order for CD92 repair. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

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

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 92.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 92, having received a petition to repair pursuant to Minnesota Statutes, section 103E.715 by Randy Peter, Brad Zierke, and Anthony Zierke, having noticed and conducted a public hearing on the engineer's report, and based on the record and proceedings, to adopt the following Findings and Order:

### **Findings:**

1. A petition dated December 5, 2017 was received by the Faribault County Auditor requesting to repair County Ditch 92 pursuant to Minn. Stat. § 103E.715.
2. The drainage authority met at 9:00am on December 19, 2017, accepted a petition for the repair of County Ditch 92 to close approximately 800 feet of open ditch to a tile, ordered the petitioners to hire a certified drainage engineer to develop a repair report and file the report with the Faribault County Auditor.
3. The engineer's report was filed with the drainage authority on November 30, 2020. The drainage authority, in consultation with the auditor, ordered a public hearing on the repair report.
4. The drainage authority, by order, set a public hearing for review of the engineer's survey report on December 18, 2020 at 1:00pm at the Golden Bubble Wells, MN. 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. At the public hearing, Engineer Chuck Brandel of ISG presented the engineer's report. The Engineer recommended the tile be a minimum of 24 inches in diameter at 0.1% grade. The Engineer recommended the tile be installed per Engineer's specifications by a County approved contractor. Upon completion of the project, the Engineer recommended requiring the landowner to submit televising footage and as-built drawings for the legal record.

02-02-21

6. This repair is to replace 800 feet of open ditch at the very upstream portion of County Ditch 92 to tile.
7. The project benefits the landowner.
8. The engineer's report contains all of the details, plans, and specifications necessary for the landowner to solicit a contractor and construct the project.
9. 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. Tracey Zierke, Blue Earth City Township, 310 North East Street Blue Earth, MN 56013
    - i. Presented an explanation of why the repair was wanted. There are 3 tile outlets near the top end of the open ditch and there is 2 feet of sediment in it causing the tiles to be forced outlets. The ditch never has much water in it, so vegetation grows in the bottom and silts in.
  - b. Mark Mensing, Elmore Township, 41000 50<sup>th</sup> Street Blue Earth, MN 56013
    - i. Presented information about the open ditch including that he feels the open ditch south of County Road 2 needs to be cleaned. Only a portion of the open ditch has been cleaned since he has been around. He has no objections to the installation of a tile to replace 800 feet of open ditch as long as the project is completed with no cost to the system.

*The Drainage Department will work with the landowners on cleaning need outside the work area. The project is proposed to be paid for by the landowner because the project is a benefit to the landowner.*

- c. Tracey Zierke, Blue Earth City Township, 310 North East Street Blue Earth, MN 56013
  - i. Presented questions if the Board would consider paying for the tile, approximately \$20,000, since the tile will reduce future maintenance cost.

*The cost to maintain the open ditch is much less than \$20,000. The cost is the landowners and that was made clear prior to the petition submittal. The landowner can hire the contractor of their choice as long as the contractor meets the County requirements to work on a public drainage system.*

- d. Randall Peter, Elmore Township, 3677 400<sup>th</sup> Ave. Elmore, MN 56027
  - i. Presented questions clarifying what the cost to the system will be for the project.

*Any open ditch cleaning would be a system cost. The cost to install the tile and close the open ditch would be the landowner's (Bradley K Zierke Revocable Living Trust & Anthony Zierke) cost.*

10. At the close of public comment, Commissioner Loveall moved that 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, County Ditch 92, from Elmore Township Section 22 station 113+65 to station 121+00 at the upstream end of the open ditch may be repaired to a minimum of a 24 inch diameter tile at 0.1% grade; that the repair of County Ditch 92 will maintain the established hydraulic efficiency of the original construction and/or subsequent improvement of the drainage system. 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 92, hereby orders as follows:

- A. That the petition of Randy Peter, Bradley Zierke, and Anthony Zierke to repair County Ditch 92 in the location specified in these findings and recommended in the engineer's report is granted consistent with the engineer's recommendations.

- B. The landowner, Bradley K Zierke Revocable Living Trust & Anthony Zierke, shall proceed to construct the project as described in the engineer's report with a Drainage Department approved contractor.
- C. The project shall be substantially completed by December 30, 2022 or additional drainage authority approval is needed.
- D. The cost of the repair shall be paid by the landowner, Bradley K Zierke Revocable Living Trust & Anthony Zierke.
- E. Upon completion, the landowner shall provide televising footage and engineer as-built drawing to the County Auditor.

\* \* \* \* \*

Loveall/Groskreutz motion carried unanimously to approve Resolution 21-DA04-10 order accepting the repair contract on CD3. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

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

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 3.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 3, having received the engineer's report and notice that the contract for construction of the County Ditch 3 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, adopt the following Findings and Order:

#### Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 3.
2. By order dated January 21, 2020 the drainage authority established the open ditch repair to County Ditch 3 in Faribault County.
3. Upon advertised bids, the drainage authority awarded a contract for construction to Krueger Excavating of Albert Lea, LLC on March 17, 2020.
4. In the proceedings, damages were awarded based on the impact construction of the project had on adjacent properties. At the public hearing on the engineer's report, the drainage authority determined that the re-sloping of banks required taking of property not contemplated and included in the proceeding for the establishment or subsequent improvement of the drainage system. The permanent damage report is attached as Exhibit A.
5. Upon completion of construction of the County Ditch #3 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 \$364,342.75 with an additional \$10,600.00 of change orders for a final contract amount of \$374,942.75 with the final total amount paid to the contract of \$408,941.20, \$33,998.45 over the contract price including changes orders due to

additional tile outlet replacement, tile outlet armoring, tree clearing, slough repair, and side inlet repair than estimated.

8. The engineer has certified and recommended a final payment of \$10,223.52.
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. Charles Johnson, 14582 550<sup>th</sup> Ave. Wells, MN:
    - i. Presented questions about why landowners do not have input and knowledge of projects prior to construction.
    - ii. *There were several informational meetings about the repair that were well attended, and the Board reduced the scope of the project due to landowner input. There was also a public hearing to approve the project. All the meetings and hearing were noticed by mail to all landowners within the County Ditch #3 system.*
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 on January 4, 2021.

#### **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 3, 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 \$10,223.52.
- D. Permanent damages occurred due to bank re-sloping. The permanent damage report attached hereto as Exhibit A.
- E. The County Auditor is ordered to pay landowners with permanent damages based on the approved 2018 Viewers' Report damage rate.

\* \* \* \* \*

Groskreutz/Young motion carried unanimously to approve Resolution 21-DA05-11 CD55 order accepting the repair contract. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

#### **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 55.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 55, having received the engineer's report and notice that the contract for construction of the County Ditch 55 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, adopt the following Findings and Order:

#### **Findings:**

02-02-21

- 31 -



1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 55.
2. By order dated January 21, 2020 the drainage authority established the open ditch repair to County Ditch 55 in Faribault County.
3. Upon advertised bids, the drainage authority awarded a contract for construction to Brunz Construction Company, Inc. on March 17, 2020.
4. In the proceedings, damages were awarded based on the impact construction of the project had on adjacent properties.
5. Upon completion of construction of the County Ditch 55 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 \$163,415.00 with an additional \$13,895.95 of change orders for a final contract amount of \$177,310.95 with the final total amount paid to the contract of \$155,100.95, \$22,210.00 under the contract price including changes orders due to less tile outlet replacement, linear feet of culvert, and side inlet repair needed than estimated.
8. The engineer has certified and recommended a final payment of \$21,166.28.
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. Paul Blom, Brush Creek Township, 49323 125<sup>th</sup> Street Briceyn, MN 56014:
    - i. Commented how he is thankful for the project, how well the project turned out and improved drainage.
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 on January 4, 2021.

**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 #55, 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 \$21,166.28.

\* \* \* \* \*

Anderson/Loveall motion carried unanimously to approve Resolution 21-DA06-12 CD34 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

## **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 34.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 34, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on May 5, 2020; 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, adopt the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 34.
2. On May 5, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch 34 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on May 15, 2020.
4. The viewers held informational meetings on August 10, 2020 and December 2, 2020 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits and damages statement, on November 14, 2020, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 and damages on January 28, 2021 at 9:00am at the Golden Bubble, Wells, MN.
14. 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 34.

15. 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.
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 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.
28. The viewers' report is attached as Exhibit A.
29. The benefits and damages statement is attached as Exhibit B.
30. No public comment.
31. At the close of the public comment hearing, Commissioner Anderson 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; 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 February 2, 2021. Commissioner Young seconded and the motion carried.

32. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in March 2021. Commissioner Anderson 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 34, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch 34, 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 34.

\* \* \* \* \*

Anderson/Loveall motion carried unanimously to approve Resolution 21-DA07-13 CD38 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

#### **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 38.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 38, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on May 5, 2020; 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, adopt the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 38.
2. On May 5, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch 38 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on May 15, 2020.
4. The viewers held informational meetings on August 10, 2020 and December 2, 2020 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on November 14, 2020, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 and damages on January 28, 2021 at 10:00am at the Golden Bubble, Wells, MN.
14. At the public hearing, John Thompson, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Thompson 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 38.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers stated there were no damages associated with County Ditch 38.
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. 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. John Goette, Seely Township, 702 North 4<sup>th</sup> Street Bricelyn, MN 56014
    - i. Presented questions about County Ditch 38 out-letting into County Ditch 72 and if landowners on County Ditch 38 will pay for a portion of work completed to maintain County Ditch 72.
    - ii. *In the future yes. Once County Ditch 72 Redetermination of Benefits and Damages is finished.*
31. At the close of the public comment hearing, Commissioner Anderson 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 Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on February 2, 2021. Commissioner Groskreutz 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 38, hereby orders as follows:

- A. The redetermined benefits of County Ditch 38, 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.

The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch 38.

\* \* \* \* \*

Anderson/Groskreutz motion carried unanimously to approve Resolution 21-DA08-14 CD18 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

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

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 18.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 18, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on May 5, 2020; 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, adopt the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 18.
2. On May 5, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch 18 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on May 15, 2020.

02-02-21

- 38-

4. The viewers held informational meetings on August 10, 2020 and December 2, 2020 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on November 14, 2020, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 and damages on January 28, 2021 at 9:30am at the Golden Bubble, Wells, MN.
14. 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 18.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers stated there were no damages associated with County Ditch 18.
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.
31. At the close of the public comment hearing, Commissioner Anderson 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 February 2, 2021. Commissioner Loveall 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 18, hereby orders as follows:

- A. The redetermined benefits of County Ditch 18, 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 18.

\* \* \* \* \*

Loveall/Young motion carried unanimously to approve Resolution 21-DA09-15 CD42 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

## **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 42.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 42, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 3, 2018; 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, adopt the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 42.
2. On July 3, 2018, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #42 pursuant to Minn. Stat. § 103E.351. Mark Behrends, Chris Christenson, Robert Hansen, Kendall Langseth, and Dennis Distad were appointed as viewers.
3. The viewers held informational meetings on July 13, 2020 and January 21, 2021 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on January 2, 2021, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 January 28, 2021 at 10:30am at the Golden Bubble, Wells, 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 42.
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. No public comment.
30. At the close of the public comment hearing, Commissioner Loveall 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; 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 February 2, 2021. Commissioner Young seconded and the motion carried.
31. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in March 2021. 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 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 42, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch 42, 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 42.

\* \* \* \* \*

Groskreutz/Anderson motion carried unanimously to approve Resolution 21-DA10-16 CD 8 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

02-02-21

## **RESOLUTION**

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 8.

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 8, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 3, 2018; 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, adopt the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 8.
2. On July 3, 2018, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch 8 pursuant to Minn. Stat. § 103E.351. Mark Behrends, Chris Christenson, Robert Hansen, Kendall Langseth, and Dennis Distad were appointed as viewers.
3. The viewers held informational meetings on July 13, 2020 and January 21, 2021 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on January 2, 2021, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 January 28, 2021 at 11:00am at the Golden Bubble, Wells, MN.
13. 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 #8.
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. No public comment.

30. At the close of the public comment hearing, Commissioner Loveall 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; 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 February 2, 2021. Commissioner Anderson seconded and the motion carried.
31. Commissioner Loveall moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in March 2021. Commissioner Groskreutz 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 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 8, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch 8, 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 8.

\* \* \* \* \*

Loveall/Anderson motion carried unanimously to approve Resolution 21-DA11-17 CD 46 order accepting the redetermination of benefits. Commissioners Anderson, Groskreutz, Loveall, Roper, and Young voted yes.

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

**BE IT RESOLVED** that the County Board of Commissioners approves the following findings and order for County Ditch 46.

02-02-21

- 46-

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 46, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 21, 2020; 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, adopt the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 46.
2. On July 21, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch 46 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. The viewers held informational meetings on August 19, 2020 and January 21, 2021 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on December 31, 2020, 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, by order, set a public hearing for review of the viewers' report on January 28, 2021, 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 January 28, 2021 at 11:30am at the Golden Bubble, Wells, MN.
13. At the public hearing, John Thompson, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Thompson 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 46.
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. No public comment.
  30. At the close of the public comment hearing, Commissioner Loveall 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; 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 February 2, 2021. Commissioner Young seconded and the motion carried.

31. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in March 2021. Commissioner Anderson 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 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 46, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch 46, 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 46.

\* \* \* \* \*

Merissa Lore presented staff report.

\* \* \* \* \*

The Faribault County Drainage Authority was adjourned for February.

---

John Roper, Chair

---

Clara Vereide, Acting Clerk to the Board