

FARIBAULT COUNTY  
BOARD OF COMMISSIONERS  
OFFICIAL PROCEEDINGS  
DRAINAGE AUTHORITY MEETING  
MARCH 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 March 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.

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

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No member of the public appeared during public comment.

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

System	Repair #	Branch	Comm	Twp	Sec	Landowner	Problem/Proposed Work	Contractor	Estimate
JD7FM	21-009	Branch S Open	2	Pilot Grove	28	Thomas E Dahl	Grind trees on the East side	Krueger Excavating of Albert Lea, LLC	\$15,500.00
CD83	21-010	Main	3	Dunbar	28	Dennis G & Diane L Lutteke	Grind trees	Krueger Excavating of Albert Lea, LLC	\$ 6,000.00

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Loveall/Anderson motion carried unanimously to approve payment totaling \$68,500.00.

System	Repair #	Order	Branch	Comm Dis	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
JD6F	21-008	1	Branch B Open	4	Barber	27	CHRISTIANSON,STEVEN	Grind Trees	7678	Krueger Excavating of Albert Lea, LLC	100	\$68,500.00
											Total:	\$68,500.00

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Young/Loveall motion carried unanimously to approve the CD60 alternative side inlet cost share contract for \$10,125.00.

\* \* \* \* \*

Young/Loveall motion carried unanimously to approve Resolution 21-DA12-26 approving the following Findings and Order on Judicial Ditch 13F. 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 Judicial Ditch 13F.

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for Judicial Ditch 13F.
2. Judicial Ditch 13F was established in 1916. Benefits for Judicial Ditch #13F were determined concurrent with establishment in 1916, prior to the initiation of modern, intensive farming and drainage practices within Faribault County.
3. The current benefits roll reflects the benefitted properties, benefitted areas, and benefit values as determined by viewers based on assumptions regarding the future use and drainage of said properties.
4. Since the original establishment of Judicial Ditch 13F and the original determination of benefits and damages, land uses, and drainage practices have changed to accelerate and increase the flow of water to the drainage system changing the nature and value of benefits accruing to lands from construction of Judicial Ditch 13F.
5. Since the original determination of benefits and damages, land values have changed within the benefitted area of Judicial Ditch 13F.
6. The drainage authority held a public meeting on March 2, 2021 to discuss the need for a redetermination of benefits for Judicial Ditch 13F.
7. The drainage authority finds that the conditions required for the initiation of a redetermination of benefits exist, that the original benefits and damages do not reflect reasonable present day land values, and the benefitted areas have changed.

### **Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for Judicial Ditch 13F, hereby orders as follows:

- A. The Board shall follow the procedures of Minn. Stat. § 103E.351 to conduct a redetermination of benefits for Judicial Ditch 13F.
- B. That Mark Behrends, Dennis Distad, Bruce Ness, Robert Hansen, John Thompson, and Kendall Langseth, are hereby appointed as viewers to redetermination and report the benefits and damages for Judicial Ditch 13F.

That within 5 days of this order, the County Auditor-Treasurer shall execute an order designating a time and location for the first meeting of the viewers and mail to the viewers a copy of the Auditor-Treasurer order along with a certified copy of this order.

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Young/Groskreutz motion carried unanimously to approve Resolution 21-DA13-27 adopting the findings and order on County Ditch 40. 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 40.

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 40.
2. County Ditch 40 was established in 1915. Benefits for County Ditch 40 were determined concurrent with establishment in 1915, prior to the initiation of modern, intensive farming and drainage practices within Faribault County.
3. The current benefits roll reflects the benefitted properties, benefitted areas, and benefit values as determined by viewers based on assumptions regarding the future use and drainage of said properties.
4. Since the original establishment of County Ditch 40 and the original determination of benefits and damages, land uses, and drainage practices have changed to accelerate and increase the flow of water to the drainage system changing the nature and value of benefits accruing to lands from construction of County Ditch 40.
5. Since the original determination of benefits and damages, land values have changed within the benefitted area of County Ditch 40.
6. The drainage authority held a public meeting on March 2, 2021 to discuss the need for a redetermination of benefits for County Ditch 40.
7. The drainage authority finds that the conditions required for the initiation of a redetermination of benefits exist, that the original benefits and damages do not reflect reasonable present day land values, and the benefitted areas have changed.

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

- A. The Board shall follow the procedures of Minn. Stat. § 103E.351 to conduct a redetermination of benefits for County Ditch 40.
- B. That Mark Behrends, Dennis Distad, Bruce Ness, John Thompson, Robert Hansen, and Kendall Langseth, are hereby appointed as viewers to redetermination and report the benefits and damages for County Ditch 40.

That within 5 days of this order, the County Auditor-Treasurer shall execute an order designating a time and location for the first meeting of the viewers and mail to the viewers a copy of the Auditor-Treasurer order along with a certified copy of this order.

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Groskreutz/Young motion carried unanimously to approve the findings and order on 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 adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch 83 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 February 5, 2021 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on January 15, 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 February 25, 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 February 25, 2021 at 9:00am 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 83.
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.

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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 Groskreutz 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 March 2, 2021. Commissioner Anderson seconded and the motion carried.
31. Commissioner Young moved to direct staff to make payments of the damages, and direct recording of the order to reflect the acquisition in April 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 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 83, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch 83, 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.

The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch 83.

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Loveall/Young motion carried unanimously to approve Resolution 32-DA14-28 approving the findings and order for CD26. 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 Judicial Ditch 13F.

**Findings:**

1. Faribault County Board of Commissioners is the drainage authority for County Ditch #26.
2. A landowner informational meeting was held on February 23, 2021 to discuss the upstream portion of the main line tile that is in disrepair.
3. Staff repair report was presented to the Board on March 2, 2021.

4. Pursuant to Minn. Stat. § 103E.715, subd. 3, a public hearing must be noticed by mail to petitioners, owners of property, and political subdivisions likely to be affected by the proposed drainage project.

**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 26, hereby orders as follows:

- A. A hearing on the staff repair report shall be held on March 26, 2021 at 9:00 a.m. at the Golden Bubble, 11575 State Hwy 22 Wells, MN 56097.
- B. At least ten days before the hearing, the Faribault County Auditor shall mail notice of the time and location of the hearing to petitioners, owners of property, and political subdivisions likely to be affected by the proposed drainage project in the repair report.

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Gary Feyereisen, USDA-ARS met to update on the CD62 bioreactor. A monitor is on CD30 and doing a paired watershed study to CD62. He is working on renewal of 5-year agreement with USDA-ARS with addition of data agreement.

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Lore presented staff report.

Esser presented Auditor report.

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The Faribault County Drainage Authority was adjourned.

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John Roper, Chair

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Clara Vereide, Acting Clerk to the Board