

BENTON COUNTY DITCH AUTHORITY  
Tuesday, September 6, 2016  
Benton County Board Room

The Benton County Ditch Authority met in special session on September 6, 2016 in the Benton County Board Room in Foley, MN with Board members Jim McMahon, Spencer Buerkle, Ed Popp, Jake Bauerly and Warren Peschl present. Also present was Chris Byrd, County Engineer; Michelle Meyer, Assistant County Attorney; Monty Headley, County Administrator; and Vicki Feuling, Administrative Assistant.

Call to order by Chair Spencer Buerkle was at 1:00 PM.

Peschl/Popp unanimous to approve the agenda as written.

Popp/Bauerly unanimous to approve the minutes of August 16, 2016 as written.

A public hearing to receive public input on the viewers' report of redetermination of benefits for County Ditch 13 was opened at 1:02 PM. Byrd pointed out that this is a continuation of the public hearing which was opened at the last meeting. He stated that some property owners had received reports showing them as benefitting from Ditch 15; in light of new information, these owners are now being included in the assessed benefits of Ditch 13—the affected property owners received revised reports prior to today's meeting. Byrd indicated that today's public hearing is for those specific parcels that were previously listed under Ditch 15, and are now included in Ditch 13.

Speaking in support was Ron Ringquist of the MN Viewers Association, who was one of the appointed viewers. He restated the purpose of today's hearing is a continuance because there was a private ditch system that, when they previously viewed the property, drained a certain portion of the upper part of the Ditch 13 watershed, southerly and into Ditch 15. Ringquist stated that, subsequent to their field work, that private ditch has been closed and, in discussion with some of the landowners, they felt it was more important to maintain the right-of-way and the maintain-ability of Ditch 13 than to look at which ditch may provide the best hydraulic outlet (the right of access was more important). He stated the viewers' recommendation that notices be sent to those individuals in that upper watershed which are part of sections 2, 3, 10 and 11 that were included as benefitting from Ditch 15, and now have been included as the upper reach of Ditch 13 instead (which they were in the original proceedings). Ringquist stated that the viewers added those properties to the benefitted properties of Ditch 13 and have also included the grass buffer strip right-of-way on that ditch system up through those sections. By adding those additional parcels back into Ditch 13, he stated benefits of \$668,463.01; total damages equal \$40,565.60 for acquiring of the easement to establish and maintain the one rod of grass buffer.

Also speaking in support of the viewers' report was Robert Anderson, 8521 County Road 23, Becker. He stated that he had to close the ditch up because of the letter that came from the county. Anderson inquired if the water following CR 86 from the north to the south (to CSAH 13) is included in Ditch 15; he also inquired if the water on the east side of CR 86 remains a part of Ditch 15 (Ringquist answered in the affirmative.)

No one was present to speak in opposition to the viewers' report; the public hearing was closed at 1:08 PM.

Peschl/Popp unanimous to accept the viewers' report on Ditch 13 as amended and direct the County Attorney's Office to prepare an order for filing with the Auditor-Treasurer; further, that

- A. Upon review of information provided to the Drainage Authority during the public hearing, the Drainage Authority further finds and confirms 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 benefited areas.
- B. Based on the record before it, and the comments of those present at the final hearing, as continued, the Drainage Authority determines that the redetermined benefits are proper, reasonable and conform to the drainage code.

McMahon/Peschl unanimous that:

- C. The redetermined benefits on CR 13, the viewers' report and the benefits and damages statement, Exhibit A, are hereby adopted by the Drainage Authority.

Popp/McMahon unanimous that:

- D. The viewers are allowed payment of their account of work either upon submission of an update to their benefits and damages statement dated September 6, 2016, or upon confirmation that no update is necessary.

Bauerly/McMahon unanimous that:

- E. The Auditor of Benton County shall ensure that the redetermined benefits replace the existing benefits previously determined for the ditch.

A public hearing to receive public input on the viewers' report of redetermination of benefits for County Ditch 15 was opened at 1:15 PM. Byrd explained that Ditch 15 also contains several parcels whereby the benefited acres differ from the original report. Ringquist stated that the viewers have resubmitted the viewers' report for Ditch 15; the major change was the removal of those properties that were originally included that outlet through the private ditch and have now been transferred into Ditch 13. He pointed out that there was a small area on the easterly edge across County Road 86 that drained through a private waterway and back into the ditch that were not included in the original proceedings (for the most part on the Anderson properties); that property is now included within this report, bringing the current estimated benefits to \$1,570,436.94. Ringquist clarified that the report does include the area of damages for the buffer strip as well.

No one was present to speak in support or in opposition to the viewers' report; the public hearing was closed at 1:19 PM.

Bauerly/Peschl unanimous to accept the viewers' report on Ditch 15 as amended and direct the County Attorney's Office to prepare an order for filing with the Auditor-Treasurer; further, that

- A. Upon review of information provided to the Drainage Authority during the public hearing, the Drainage Authority further finds and confirms 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 benefited areas.
- B. Based on the record before it, and the comments of those present at the final hearing, as continued, the Drainage Authority determines that the redetermined benefits are proper, reasonable and conform to the drainage code.

McMahon/Popp unanimous that:

- C. The redetermined benefits on CR 15, the viewers' report and the benefits and damages statement, Exhibit A, are hereby adopted by the Drainage Authority.

Bauerly/McMahon unanimous that:

- D. The viewers are allowed payment of their account of work either upon submission of an update to their benefits and damages statement dated September 6, 2016, or upon confirmation that no update is necessary.

Popp/Peschl unanimous that:

- E. The Auditor of Benton County shall ensure that the redetermined benefits replace the existing benefits previously determined for the ditch.

Meyer clarified that there is a 30-day appeal period from the date the orders are filed with the Auditor-Treasurer; once the 30-day period has elapsed, the Ditch Authority may consider repair of the ditch. Meyer advised that no billable costs be incurred prior to the appeal period to ensure that the current and correct redetermination of benefits statement applies to the costs of this current project. Byrd will proceed to acquire quotes; if bids are required, he will need to advertise in the newspapers for three weeks.

Peschl/McMahon unanimous to adjourn at 1:25 PM.

---

Spencer C. Buerkle, Chair  
Benton County Ditch Authority

ATTEST:

---

Montgomery Headley  
Benton County Administrator