

1. Ditch Authority Meeting Agenda And Packet June 7, 2022

Documents:

[DITCH AUTHORITY PACKET_JUNE 7, 2022.PDF](#)



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BENTON COUNTY DITCH AUTHORITY

Tuesday, June 7, 2022 at Approximately 10:05 AM

Or Upon Completion of Regular Board Meeting

Benton County Board Room

AGENDA

1. Call to Order by Chair Steve Heinen
2. Approve or Amend the Agenda
3. Approve or Amend the Meeting Minutes of May 17, 2022
4. Conduct a Public Hearing on the Repair Report for County Ditch No. 6
5. Order a Reestablishment of Drainage System Records of County Ditch No. 9
6. Adjourn

Virtual Meeting Information:

**Benton County Board of Commissioners/Benton County Economic Development Authority/
Benton County Ditch Authority**

Please join my meeting from your computer, tablet or smartphone.

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<https://global.gotomeeting.com/join/834170141>

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United States: [+1 \(571\) 317-3122](tel:+15713173122)

Access Code: 834-170-141

Ditch Authority:
Scott Johnson, District 1
Ed Popp, District 2
Steve Heinen, District 3
Jared J. Gapinski, District 4
Beth Schlangen, District 5

531 Dewey Street
P.O. Box 129
Foley, MN 56329
Benton County's Website:
www.co.benton.mn.us

(320) 968-5000 Main
(320) 968-5329 Fax
(320) 968-8842 TDD
Email Address:
info@co.benton.mn.us

BENTON COUNTY DITCH AUTHORITY
TUESDAY, MAY 17, 2022
BENTON COUNTY BOARDROOM

The Benton County Ditch Authority met in regular session on May 17, 2022 in the County Boardroom in Foley, MN with Board members Beth Schlagen, Scott Johnson, Steve Heinen, Jared Gapinski and Ed Popp present. Also present was Chris Byrd, County Engineer; Montgomery Headley, County Administrator; and Beth Stay, Executive Assistant.

Chair Heinen called the meeting to order at 12:14 PM.

Popp/Johnson to approve the agenda as written. Motion carried unanimously.

Gapinski/Heinen to approve the Meeting Minutes of May 3, 2022 as written. Motion carried unanimously.

County Engineer Chris Byrd requested the County Board to officially set a Public Hearing on the Repair Report for County Ditch (CD) No. 3. Per Minn. Stat. §103E.715 Subd. 3. Once the Repair Report is filed with the Auditor, the hearing must be held not more than 30 days later. Byrd recommended holding the Public Hearing at the regularly scheduled Meeting of June 21, 2022. To ensure compliance with statute, the Repair Report will be filed with the Auditor not more than 30 days before this date. Motion by Johnson and seconded by Gapinski to set the date of the Public Hearing on Tuesday, June 21, 2022 at 10:00 AM in the County Boardroom. Motion carried unanimously.

Next, Byrd provided a presentation of the Repair Report for County Ditch No. 6 for informational purposes only. No action was taken; no motion was made.

Motion by Johnson and seconded by Gapinski to adjourn at 12:35 PM. Motion carried unanimously.

Steven J. Heinen, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator



**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

Meeting Date:	6/7/22	Regular Agenda:	X
Requesting Department:	Public Works	Consent Agenda:	

Title of Requested Item As It Will Appear on Board Agenda:

Conduct a Public Hearing on the Repair Report for County Ditch No. 6

Houston Engineering will provide a presentation of the Repair Report. Then a public hearing will commence.

Action Requested:

Hold a Public Hearing, and if deemed appropriate Order the Repair of County Ditch No. 6

Fiscal Impact:

Estimated Cost (\$):	N/A
Source of Funds:	Assessments on benefitted landowners
New or Additional Revenue (\$):	N/A
Cost Budgeted in Current Year? (Yes/No)	N/A

Approved by:	Signature	Date
Chris Byrd	<i>Chris Byrd</i>	6-1-2022
County Attorney (for contracts)		

Amt of Time Requested	Specific Time on Agenda	Laptop Needed?	Overhead Needed?
15 Min	No	No	Yes

STATE OF MINNESOTA
Before the
Benton County Board of Commissioners
SITTING AS THE DRAINAGE AUTHORITY FOR
County Ditch No. 6

In the Matter of:

**the Petition to Repair
County Ditch No. 6**

**FINDINGS AND ORDER GRANTING
PETITION TO REPAIR**

The Benton County Board of Commissioners, sitting as the drainage authority for County Ditch No. 15, having received a Petition to repair pursuant to Minnesota Statutes, section 103E.715 by Cary Pietrzak, Carolyn Pietrzak, Bryan Pietrzak and Amanda Pietrzak; an engineer's report was prepared. Now, having noticed and conducted a public hearing on the engineer's report on June 7, 2022, and based on the record and proceedings, Commissioner _____ moved, seconded by Commissioner _____ to adopt the following Findings and Order:

Findings:

1. A Petition dated March 20, 2022, was received by the Benton County Auditor/Treasurer on March 21, 2022 requesting to repair County Ditch No. 6 pursuant to Minn. Stat. § 103E.715.
2. The drainage authority met at on April 5, 2022 at the Benton County Board Room in Foley, MN, accepted a petition for the repair of County Ditch No. 6, and appointed Christopher Byrd to prepare an engineer's report pursuant to Minn. Stat. § 103E.715, subd. 2.
3. As a part of the reestablishment of records, a routine inspection report was completed on April 23, 2021. The report was filed with the drainage authority on May 10, 2022 as a part of the petition proceeding. The drainage authority, in consultation with the auditor, ordered a public hearing on the repair report.
4. 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. As required under Minn. Stat. § 103E.741, notice was also given to property owners determined by the engineer to be draining into the drainage system or benefiting from the drainage system but for which no assessment of benefits was made for the construction of the drainage system.
6. On May 5, 2020, the Board reestablished the drainage system records for Benton County Ditch No. 6. The Board established the As Constructed and Subsequently Improved Condition (ACSIC) to which all future repair projects will be constructed to. It also identified properties that were potentially benefitted from the drainage system, but were not assessed benefits.
7. On July 7, 2020, the Board determined that there were omitted properties that were benefitted by County Ditch No. 6 but were not being assessed benefits, and that the benefits and damages determined in the original proceedings, as well as the benefitted and damaged areas determined in the original proceedings did not reflect current, existing, actual benefits and damages and benefitted areas. The board ordered a viewer's repair report/redetermination of benefits and appointed viewers in compliance with Minn. Stat. § 103E.741, § 103E.305 and § 103E.315.
8. On March 15, 2022, the Board adopted the viewers' report and the benefits and damages statement and ordered the redetermined benefits replace the existing benefits for County Ditch No. 6.
9. On May 10, 2022, the appointed engineer filed an engineer's report dated April 23, 2021 with the Auditor/Treasurer.
10. The engineer's report for County Ditch No. 6 estimated the cost of the repairs to be \$512,400.00.
11. At the April 23, 2022, public meeting, the Board directed the Nadean Inman, Auditor Treasurer, and Chris Byrd, Public Works Director, to set a hearing for petition for repair of County Ditch No. 6.
12. Pursuant to Minn. Stat. § 103E.705, subd. 6 and Minn. Stat. § 103E.715, a public hearing before the drainage authority was held on June 7, 2022 at 10:00 a.m. at Benton County Board Room, Foley, MN.
13. At the public hearing, Engineer Chris Byrd presented the engineer's report. The System is a 4.0-mile open channel system that consists of 2.9-mile Main Trunk and 1.1 mile Branch 1. It is in Graham Township. The watershed is agricultural along with wetland, forest and rural residential

The Engineer recommended a repair of the entire drainage system of County Ditch No. 6. The engineer's report indicated that several areas of County Ditch No. 6 have sedimentation. Sediment depth of up to 2 feet was observed in parts of the

Main Trunk and Branch 1. Culverts are creating a trap for sediment. Replacement of 8 of 9 culverts needs to be done because they are either too small, the elevations are above the ACSIC of the ditch or are in disrepair.

County Ditch No. 6 does not intersect with any state-listed Public Waters or Public Water Wetlands. Ditch 6 does intersect with wetlands identified in the MnDNR National Wetland Inventory. The wetlands identified within proximity to CD 6 are Type 1 and 2; therefore, the repair will meet the exemption criteria.

Based on MnDNR's Natural Heritage Information System there are no state-listed threatened or endangered species identified within County Ditch No. 6.

14. The engineer's report contains all of the details, plans, and specifications necessary to prepare and award a contract for the repairs.
15. 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. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<Board's response to comment>
 - b. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<Board's response to comment>

[Note: If the engineer's report recommends repair and the drainage authority intends to order repair, the findings consistent with the following paragraphs are also recommended.]

16. 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, that entirety of County Ditch No. 6 is out of repair; that the condition of County Ditch No. 6 impedes the flow of water and reduces the hydraulic efficiency of the drainage system below that established by the original construction and/or subsequent improvement of the drainage system.

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 No. 6, hereby orders as follows:

- A. That the repair of Benton County Ditch No. 6 in the location specified in these findings and recommended in the engineer's report is granted consistent with the engineer's recommendations.
- B. The Auditor/Treasurer, Nadean Inman, and the Board chair shall proceed and prepare and award a contract for the repair of the drainage system consistent with the procedures required by Minn. Stat. Ch. 103E and under Minnesota law. The contract must be for the repair described in the repair report and as determined necessary by the drainage authority in these findings and order, and be prepared in the manner provided in Minn. Stat. Ch. 103E for the original drainage system construction.
- C. The cost of the repair shall be paid from the funds in the maintenance account for County Ditch No. 6 and/or by assessments made to the properties benefited by the drainage system in the drainage system records.
- D. The Auditor/Treasurer shall pay the damages as reported in the viewers' report and in conformance with these proceedings. The damages paid shall be a cost of the repair ordered herein. The Auditor/Treasurer shall also add the benefits as reported in the viewers' report and in conformance with these proceedings to the benefits determined as the basis for the pro rata assessment for the repair of the drainage system.
- E. The repair includes removing sediment above the ACSIC, leveling spoil banks, installing erosion control measures, or removing trees that was identified in the Reestablishment Report adopted May 5, 2020. The repair will be consistent with the ACSIC adopted May 5, 2020.
- F. In all future proceedings relating to repairing, cleaning, improving, or altering the drainage system, the property benefited in the viewers' report hearing is part of the property benefited by the drainage system and must be assessed in the same manner provide for the assessment of property originally assessed for and included in the drainage system.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were _____ yeas, _____ nays, _____ absent, and _____ abstentions as follows:

	Yea	Nay	Absent	Abstain
Edward Popp	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steven Heinen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Scott Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jared Gapinski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Beth Schlangen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chair declared the motion passed and the Findings and Order adopted.

Steven J. Heinen, Chairperson

Dated: _____

* * * * *

I, Nadean Inman, Benton County Auditor Treasurer, do hereby certify that I have compared the above motion; findings and order with the original thereof as the same appears of record and on file with the Benton County Board of Commissioners and find the same to be a true and correct transcript thereof. The above order was filed with me, Benton County Auditor Treasurer, on _____

IN TESTIMONY WHEREOF, I hereunto set my hand this
_____ day of _____, _____.

Nadean Inman



**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

Meeting Date:	6/7/2022	Regular Agenda:	X
Requesting Department:	Public Works	Consent Agenda:	

Title of Requested Item As It Will Appear on Board Agenda:

Order a Reestablishment of Drainage System Records of County Ditch No. 9.

Background Information:

In response to the repair petition received and the order dated 9/1/2020 to complete a repair report a preliminary report has completed. However due to a lack of as-built and as-constructed plans of the original ditch construction in 1905, a repair profile or As Constructed and Subsequently Improved Condition needs to be determined. To accomplish, the Drainage Authority must reestablish the drainage records.

Action Requested:

Adopt the attached findings and order to initiate the Reestablishment of Drainage System Records

Fiscal Impact:

Estimated Cost (\$):	\$11,400
Source of Funds:	County Ditch 9 Fund
New or Additional Revenue (\$):	N/A
Cost Budgeted in Current Year? (Yes/No)	N/A

Approved by:	Signature	Date
Chris Byrd		6-1-2022
County Attorney (for contracts)		

Amt of Time Requested	Specific Time on Agenda	Laptop Needed?	Overhead Needed?
15 min	No	No	Yes

STATE OF MINNESOTA
Before the
BENTON COUNTY DRAINAGE AUTHORITY
SITTING AS THE DRAINAGE AUTHORITY FOR
BENTON COUNTY DITCH NO. 9

In the Matter of:

the Reestablishment of COUNTY
DITCH No. 9 Drainage System Records

FINDINGS AND ORDER INITIATING
THE REESTABLISHMENT OF
DRAINAGE SYSTEM RECORDS

The Benton County Board of Commissioners, sitting as the drainage authority for Benton County Ditch No. 9, pursuant to Minn. Stat. § 103E.101, subd. 4a, based on the record and proceedings, Commissioner _____ moved, seconded by Commissioner _____ to adopt the following Findings and Order:

Findings:

1. The Benton County Drainage Authority is the drainage authority for Benton County Ditch No. 9.
2. The Drainage Authority received a valid repair petition pursuant to Minn. Stat. § 103E.715 and ordered the repair report on September 1, 2020.
3. After thorough investigation of the drainage system record, the drainage authority finds that the records establishing the alignment, profile, and right-of-way of Benton County Ditch No. 9 are incomplete.
4. The Board reviewed and approved a Master Service Agreement contract with Houston Engineering on April 6, 2021 to provide engineering services.
5. Minn. Stat. § 103E.101, subd. 4a allows the drainage authority to initiate proceedings to reestablish records defining the alignment; cross-section; profile; hydraulic structure locations; materials; dimensions and elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for Benton County Ditch No. 9, hereby orders as follows:

- A. The Board shall follow the procedures of Minn. Stat. § 103E.101, subd. 4a to reestablish and correct the drainage system record for Benton County Ditch No. 9

to reflect the functional alignment, dimension, grade, and right-of-way of the system.

- B. Engineer Chris Byrd, Benton County Public Works Director, is hereby appointed to serve as the engineer for the investigation and preparation of the engineer's report. Houston Engineering shall act as a consulting engineer and provide engineering services for Benton County Ditch No. 9. The engineer, to the extent not already accomplished in its analysis supporting the repair petition, shall investigate and report findings defining the alignment; cross-section; profile; hydraulic structure locations, materials dimensions, elevations; and right-of-way of the drainage system.
- C. Once the engineer's report is filed, the Auditor-Treasurer shall give notice of the hearing by mail to the commissioner of natural resources, the executive director of the Board of Water and Soil Resources, and all property owners benefited or damaged by the drainage system and shall give additional notice either in a newspaper of general circulation in the drainage system area or by publication on the drainage authority's website.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 5 yeas, _____ nays, _____ absent, and _____ abstentions as follows:

	Yea	Nay	Absent	Abstain
Popp	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heinen	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gapinski	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schlangen	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chair declared the motion passed and the Findings and Order adopted.

Steven J. Heinen, Chairperson

Dated: _____

* * * * *

I, Nadean Inman, Benton County Auditor-Treasurer, do hereby certify that I have compared the above motion; findings and order with the original thereof as the same appears of record and on file with the Benton County Drainage Authority and find the same to be a true and correct transcript thereof. The above order was filed with me, Benton County Auditor-Treasurer, on _____

IN TESTIMONY WHEREOF, I hereunto set my hand this
____ day of _____, _____.

Nadean Inman