

1. Ditch Authority Meeting Agenda And Packet June 21, 2022

Documents:

[DITCH AUTHORITY PACKET_JUNE 21, 2022.PDF](#)



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BENTON COUNTY DITCH AUTHORITY

Tuesday, June 21, 2022 at Approximately 11:30 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 June 7, 2022
4. Set a Public Hearing on the Repair Report for County Ditch No. 3
5. Set a Hearing on the Reestablishment Report for 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.

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

You can also dial in using your phone.

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
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Foley, MN 56329
Benton County's Website:
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BENTON COUNTY DITCH AUTHORITY
TUESDAY, JUNE 7, 2022
BENTON COUNTY BOARDROOM

The Benton County Ditch Authority met in regular session on June 7, 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; Garrett Monson of Houston Engineering (virtual); Michelle Meyer, Senior Assistant County Attorney; and Beth Stay, Executive Assistant.

Chair Heinen called the meeting to order at 11:19 AM.

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

Popp/Johnson to approve the Meeting Minutes of May 17, 2022 as written. Motion carried unanimously.

County Engineer Chris Byrd requested to conduct a Public Hearing on the Repair Report for County Ditch (CD) No. 6. Garrett Monson of Houston Engineering provided a presentation of the Repair Report on CD 6. Monson stated that a valid petition to repair was received. The System is a 4.0-mile open channel that consists of 2.9-mile Main Trunk and 1.1-mile Branch 1. It is in Graham Township. It drains towards Mayhew Creek. The watershed is agricultural along with wetland, forest and rural residential. The County 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 7 field culverts and 3 county road culverts needs to be done because they are either too small, the elevations are above the ACSIC of the ditch or are in disrepair. There are vegetated channels including dense trees in certain areas which creates access concerns for inspection and/or maintenance. For access to the ditch, approximately 2.4 acres of trees will need to be cleared. County Ditch No. 6 does not intersect with any state-listed Public Waters or Public Water Wetlands. County 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 and mitigation will not be required. Based on MnDNR's Natural Heritage Information System there are no state-listed threatened or endangered species identified within County Ditch No. 6. In the opinion of the engineer, a full repair is necessary. Upon repair, inundation frequency and duration will be reduced; stagnant water will be reduced; and roadways will not overtop as frequently. The proposed construction cost is approximately \$512,400.00.

Before the Public Hearing on CD 6 opened, Johnson asked Byrd if the plan was to still contact individual property owners, and that the cleaning would stay one side of the ditch. Byrd confirmed that this was still the plan.

Heinen opened the Public Hearing for CD 6 at 11:40 AM. No one from the public was present either in-person or virtually to speak at the public hearing. The public hearing closed at 11:41 AM.

Motion by Johnson and seconded by Popp to 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.

In all future proceedings relating to repairing, cleaning, improving, or altering the drainage system, the property benefited in the viewers' report public 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. Motion carried unanimously per roll call vote.

Next on the agenda was to order a Reestablishment of Drainage System Records of County Ditch (CD) No. 9. In response to the repair petition received and the order dated 09/01/2020 to complete a repair report, a preliminary report has to be completed. Due to the 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 this, the Drainage Authority must reestablish the drainage records. Byrd is 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 CD 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. 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. Motion by Johnson and seconded by Popp to order a Reestablishment of Drainage System Records of County Ditch No. 9. Motion carried unanimously per roll call vote.

Gapinski made a final comment regarding a letter in the Sauk Rapids Herald from Mr. Clarence Tadych regarding dates Benton County Commissioners held meetings to hear from landowners who may benefit from numerous ditches in the county. The article states that "at the April 11th meeting... the Commissioners ordered the Viewers to call two landowners, set a time for a land meeting... feet on the ground. All agreed. At the May 3 meeting, Commissioners were told the Viewer's never called." Gapinski stated that there are some things that are above the County Board's control due to the laws and processes currently in place, and the County Board is following the proper legal guidelines provided by the state in correlation to cleaning the ditches. Gapinski stated he "has a serious problem with not going

to the individual landowners... by us and our contractor... and we need to do a better job.” Gapinski added that we “cannot say we are going to meet with them (the landowners), and not meet up with them.” Byrd stated that the Viewer’s were at the landowner’s property last February, however there was snow on the ground. Byrd and the County Board agreed that someone should have followed up with the landowners and all took responsibility for the complaint.

Motion by Johnson and seconded by Popp to adjourn at 11:58 AM. Motion carried unanimously.

Steven J. Heinen, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator

DRAFT



**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

| | | | |
|------------------------|--------------|-----------------|---|
| Meeting Date: | 6/21/22 | Regular Agenda: | X |
| Requesting Department: | Public Works | Consent Agenda: | |

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

Repair Report for County Ditch No. 3

Background Information:

Need to officially set a Public Hearing on the Repair Report fro CD #3.

Minn Stat. 103E.715 subd 3 dictates that once the Repair Report is filed with the Auditor, the hearing must be held not more than 30 days later. To ensure compliance with statute the Repair Report will be filed with the Auditor not more than 30 days before this date.

Additionally, statute states, *“At least ten days before the hearing, the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report.”* A discussion will need to be had of whom will complete this task

Action Requested:

A Motion and Second to set the date, time and place of the Hearing. Authorize the Board Chair to sign the Official Notice (Attached).

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 | | 6-16-2022 |
| 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. 3

In the Matter of:

the REPAIR Of BENTON COUNTY DITCH
NO. 3

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE, the Board of Commissioners of the Benton County sitting as the drainage authority for Benton County Ditch No. 3, pursuant to Minn. Stat. § 103E.101, subd. 4a, shall hold a public hearing to determine whether or not to order the Repair of County Ditch No. 3 pursuant **Minn. Stat. § 103E.715, subd. 3**. The hearing shall be held at _____ a.m. on _____, 2022 at the Benton County Boardroom at the Benton County Government Center, at 531 Dewey Street, Foley, MN 56329. All interested parties may appear and be heard.

Copies of the Repair Report for Benton County Ditch No. 6 are available for inspection at Benton County Public Works office at 7752 Highway 25 NE, Foley, MN 56329.

Steven J. Heinen, Board Chair

Dated: _____,



**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

| | | | |
|------------------------|--------------|-----------------|---|
| Meeting Date: | 6/21/22 | Regular Agenda: | X |
| Requesting Department: | Public Works | Consent Agenda: | |

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

Set Hearing on the Reestablishment Report for CD 9

Need to officially set a Public Hearing on the Reestablishment Report for CD #9.

Once a date, time and place is set. Mailings will be sent to all interested parties.

At this time the Engineer's Report of Reestablishment of the Drainage Record is being submitted to the Auditor per 103E.101.

Action Requested:

A Motion and Second to set the date, time and place of the Hearing. Authorize the Board Chair to sign the Official Notice (Attached).

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 | | 6-15-2022 |
| 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**

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE, the Board of Commissioners of Benton County, sitting as the drainage authority for County Ditch No. 9, pursuant to Minn. Stat. § 103E.101, subd. 4a, shall hold a public hearing on the engineer's report of findings on the alignment; cross-section; profile; hydraulic structure locations; materials; dimensions and elevations; or right-of-way of the drainage system as originally constructed or subsequently improved in accordance with Minn. Stat. ch. 103E. The hearing shall be held at _____ a.m./p.m. on _____, at the Benton County Boardroom at the Benton County Government Center, at 531 Dewey Street, Foley, MN 56329. All interested parties may appear and be heard.

Copies of the Reestablishment Report for Benton County Ditch No. 9 are available for inspection at Benton County Public Works office at 7752 Highway 25 NE, Foley, MN 56329.

Steven J. Heinen, Board Chair

Dated: _____, _____

STATE OF MINNESOTA
Before the
BENTON COUNTY BOARD of COMMISSIONERS
SITTING AS THE DRAINAGE AUTHORITY FOR
BENTON COUNTY DITCH No. 9

In the Matter of:

**the Reestablishment of Benton County
Ditch No. 9 Drainage System Records**

**FINDINGS AND ORDER DIRECTING
THE REESTABLISHMENT OF
DRAINAGE SYSTEM RECORDS**

Pursuant to Minn. Stat. § 103E.101, subd. 4a, the Drainage Authority seeks to reestablish records defining the alignment, cross-section, profile, hydraulic structure locations, materials, dimensions, and elevations or right-of-way of Benton County Ditch No. 9. For their Motion, the Drainage Authority does state and allege the following:

1. The Drainage Authority seeks to reestablish the drainage system records of Benton County Ditch No. 9 located in Maywood Township and Glendorado Township, Benton County.
2. County Ditch Engineer, Chris Byrd has completed a thorough investigation of the drainage system records and believes that the alignment, cross-section, profile, or right-of-way of the drainage system is lost, destroyed, or otherwise incomplete.
3. Houston Engineering Inc. has been hired to investigate the present-day conditions of County Ditch No. 9 and prepare a preliminary report detailing the findings.
4. The preliminary report dated April 19, 2022 has been completed. The report contains the necessary description of the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage system to reestablish records.

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 Benton County Board of Commissioners acting as the Drainage Authority having such jurisdiction over Benton County Ditch No. 9, does hereby accept the preliminary report dated April 19, 2022 to reestablish the Public Drainage System Record for the aforementioned drainage system.

- B. The Benton County Board of Commissioners acting as the Drainage Authority having such jurisdiction over Benton County Ditch No. 9, does also hereby set forth a public hearing to be held on _____ at 10:00 AM in accordance with Minn. Stat. § 103E.101, subd. 4a, to reestablish records.
- D. This order and the engineer's preliminary report dated April 19, 2022 shall be filed with the Benton County Auditor-Treasurer, Nadean Inman, pursuant to Minn. Stat. § 103E.101, subd. 4a.
- E. Once the engineer's preliminary 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 _____ 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