

BENTON COUNTY DITCH AUTHORITY
TUESDAY, OCTOBER 4, 2022
BENTON COUNTY BOARDROOM

The Benton County Ditch Authority met in special session on October 4, 2022 in the County Boardroom in Foley, MN with Board members Beth Schlangen, Scott Johnson, Jared Gapinski and Ed Popp present. Commissioner Steve Heinen was absent. Vice-Chair Johnson noted the absence excused. Also present was Chris Byrd, County Engineer; Montgomery Headley, County Administrator; and Beth Stay, Executive Assistant.

Vice-Chair Johnson called the meeting to order at 10:10 AM.

Popp/Gapinski to approve the Meeting Minutes of September 26, 2022 as written. Motion carried unanimously.

Next, County Engineer Chris Byrd requested direction on the landowner request for field crossing on County Ditch (CD) 6. Landowner David Wruck owns a parcel of land in which CD 6 passes through. Mr. Wruck claims that in 1986 ditch digging occurred and “they removed his culvert” and “didn’t put it back”. He now requests that a culvert be installed on his property so he can cross the ditch. Byrd stated there are no records that conclusively document whether Mr. Wruck had a culvert or not in 1986 or before. Byrd does have a memo dated June 8, 1987, from then County Attorney Richard Jessen to the County Board noting that unauthorized ditch work was occurring. This is most probably the work that Mr. Wruck is referring to. The reestablishment report for CD 6 also noted this unauthorized work but found that the current alignment matches aerial imagery from 1938. There is no issue with a landowner having a field crossing. The question at hand is who should pay for it? Mr. Wruck was present to answer any questions by the County Board regarding the field crossing on CD 6. Mr. Wruck stated it was a 36-inch pipe that was taken out. Byrd stated that if it was there and taken out, then he would be more inclined to put the costs to the benefitting property owners, however Byrd does have a concern because of the lack of documentation. Motion by Popp and seconded by Gapinski to direct the Drainage Authority to pay for the installation of a 36-inch culvert on his field crossing on CD 6. Motion carried unanimously.

Next, Byrd requested to initiate a Reestablishment of Drainage System Records of County Ditch No. 10. The Drainage Authority received a valid repair petition dated 12/22/2019. In response to the repair petition received and the order dated 1/19/2021 to complete a repair report, a preliminary report was completed. While we have a lot of documentation of the establishment of CD 10, including original alignment and construction specifications, we do lack construction documentation that correlates the as-constructed elevations of the ditch bottom to modern survey data. The As Constructed and Subsequently Improved Condition (ACSIC) needs to be determined to judge what any future repair projects will be compared to. Motion by Gapinski and seconded by Popp to approve the costs of \$17,800 to adopt the findings and order to initiate the Reestablishment of Drainage System Records. Motion carried unanimously.

Next, Byrd stated that we have received a letter from the DNR regarding the repair of CD 9. Byrd and our consultant from Houston Engineering had drafted a response letter to the DNR and is looking to the Board to approve the letter, and then Byrd will send the response to the DNR. Byrd stated that both he and our consultant from Houston Engineering do not agree with the DNR's assessment, since it is based off of aerial photos taken. Byrd stated Houston Engineering went out in person to inspect the land and to take pictures and does not feel we can reliably refer to the aerial photo. Byrd stated we do have documentation showing the size of the ditch from 1916. Byrd added that we received the letter from the DNR after the Reestablishment of Records on CD 9 was adopted. Byrd stated that the DNR can provide comments on the repair but reminded the County Board that we did receive a valid repair petition for CD 9. Byrd stated that we don't disagree that there are wetlands alongside the ditch, and we are still following the statutes for wetland protection and water laws for the Drainage Authority appropriately. There was a consensus by the Drainage Authority to approve the draft letter and to send that letter as a response to the DNR.

Next, Popp questioned if the Ditch Authority decided to clean one side of the ditch or to clean both sides. Byrd stated that letters were mailed out on June 26, 2022 that informed landowners on CD 6 that we will be cleaning and removing debris from one side of the ditch only, and that is how the contractor has proceeded. The original cost to clean CD 6 was \$218,000. To go back and clean the other side of the ditch would increase the cost \$58,000 to be assessed back on the property owners. Byrd added that he does not see a benefit to the Drainage Authority as a whole to clean both sides of the ditch. There was a consensus to find the meeting minutes that states what was decided and to bring that back to the County Board.

Last, there was a discussion on Mr. Clarence Tadych's property and when to schedule the Special Meeting to have a site visit at his property. There was a consensus by the Ditch Authority to have a Special Meeting at approximately 11:00 AM, or upon the conclusion of the Committee of the Whole Meeting on Monday, October 17, 2022 at the intersection of County Road 41 and State Highway 25.

Motion by Popp and seconded by Gapinski to adjourn at 11:13 AM.

Scott Johnson, Vice-Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator