

ST. LOUIS COUNTY DRAINAGE AUTHORITY

AGENDA

October 24, 2023

Immediately following the County Board meeting

1. Call to order/roll call
2. Minutes for February 7, 2023
3. Drainage Authority Letter No. 23-03 Establish Public Hearing on Engineer's Repair Report for County Ditch #4
4. Other business
5. Adjourn

ST. LOUIS COUNTY DRAINAGE AUTHORITY PROCEEDINGS

Tuesday, February 7, 2023

The St. Louis County Drainage Authority meeting was called to order at 1:00 p.m., in the St. Louis County Courthouse, Duluth, Minnesota, with the following members present: Commissioners Annie Harala, Patrick Boyle, Ashley Grimm, Paul McDonald, Keith Musolf, Keith Nelson, and Mike Jugovich - 7. Absent: None - 0.

Commissioner Harala, supported by Commissioner Boyle, moved to approve the minutes of the January 24, 2023, St. Louis County Drainage Authority meeting. The motion passed; seven yeas, zero nays.

At 1:01 p.m., a public hearing was conducted, pursuant to St. Louis County Drainage Authority Resolution No. 23-02, adopted January 24, 2023, to hold a final hearing regarding the redetermination of benefits and damages for St. Louis County Ditch #4. Chris Pinkert, Assistant St. Louis County Attorney, gave a brief overview of the overall process. Attorney Pinkert noted that copies of letters and an email were included in packets submitted to Commissioners. Bryan Murphy, of H2Overviewers, LLC., gave the Board a brief overview of the process they use and commented that they have evaluated over 2 million acres over 30 counties. Mr. Murphy cited Minn. Stat. §§ 103.E.315 and 103E.025 as statutes that guide the process. Mr. Murphy said the total benefits of the pre-abandonment is \$580,834.41; post-abandonment is \$576,469.20. St. Louis County Public Works Director Jim Foldesi said the county is required to make a recommendation to the Board to adopt the viewer's report for both pre- and post-abandonment and would do so after considering all testimony. Chair Nelson asked if there was testimony from parties or their representatives that would like to give testimony. Dale Rauvola, of Floodwood, said there has been a span of 89 years in which nothing has been done and recommended that the ditch system be broken into fifteen sections and subcommittees would determine what should be done in each section. Dean Matvey, of Meadowlands, discussed concerns he had with the process and cited multiple statutes that he believed were not being followed during the process. A point of personal privilege was taken at 2:14 p.m. At 2:18 p.m., the Board reconvened with all members present. Gerald Wick, of Toivola, commented that when the ditches were constructed they flowed and they should be cleaned to their original levels. Jim Walzak, of Meadowlands, said he submitted a letter that states his views. Albert Moline, of Floodwood, said that a petition was filed to repair a portion of Ditch #4 and he doesn't understand why the entire ditch system needs to be repaired. Mr. Moline commented that water on his property drains to the north into a natural ravine and not into Ditch #4. John Durovec, of Meadowlands, said he does not have any property that is affected, but is in support of the landowners. Chair Nelson asked if there were any other governmental entities, supporters, or opponents who wished to speak regarding the proposed action; no one requested the opportunity to speak. Chair Nelson asked if there were any other comments from the public; no one requested the opportunity to speak. Chair Nelson asked St. Louis County Attorney Kim Maki if the Board could ask questions after the public hearing is closed. Attorney Maki commented that the Board could ask clarification questions; however, all evidence and testimony must be submitted prior to closing the public hearing. Director Foldesi said that based on testimony, the county would recommend that the Drainage Authority adopt the viewer's report for both pre- and post-abandonment. Bryan Murphy, of H2Overviewers, responded to questions from Mr. Matvey and Mr. Moline. At 2:47 p.m., Commissioner McDonald, supported by Commissioner Harala, moved to close the public hearing. The motion passed; seven yeas, zero nays.

Commissioner Harala, supported by Commissioner Nelson, moved that the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby accepts and approves, as the redetermined benefits and damages for County Ditch #4, the records as set forth in the Viewer's Reports submitted by H2Overviewers, LLC, contained in St. Louis County Board/Drainage Authority File No. 61308; further, that staff is directed to prepare and submit findings and an order consistent with the Viewer's Reports approving the redetermination of benefits, payment for grass buffer, confirming damages, and directing payment; and further, that all costs associated with redetermination of benefits and damages for County Ditch #4 shall later be assessed against those lands benefitted as set forth in Minn. Stat. § 103E. After further discussion, the motion passed; seven yeas, zero nays. Resolution No. 23-03

COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 23-03

BY COMMISSIONER HARALA:

WHEREAS, Pursuant to Minn. Stat. § 103E, the St. Louis County Board is required to convene as the County Drainage Authority to discuss and approve pending matters related to county ditches; and

WHEREAS, The County Drainage Authority received a petition for the repair of County Ditch #4; and

WHEREAS, The County Drainage Authority subsequently ordered the redetermination of benefits and damages pursuant to Minn. Stat. § 103E.351 for County Ditch #4; and

WHEREAS, The County Drainage Authority has received Viewer's Reports regarding redetermination of benefits and damages for County Ditch #4, representing pre- and post-partial abandonment numbers; and

WHEREAS, Minn. Stat. § 103E.351 requires that the County Drainage Authority hold a Final Hearing on these matters; and

WHEREAS, The County Drainage Authority, on this day, held a public hearing and heard testimony from H2Overviewers, LLC, and all others wishing to speak regarding redetermination of benefits and damages for County Ditch #4.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby accepts and approves as the redetermined benefits and damages for County Ditch #4 the records as set forth in the Viewer's Reports submitted by H2Overviewers, LLC, contained in St. Louis County Board/Drainage Authority File No. 61308

RESOLVED FURTHER, That staff is directed to prepare and submit findings and an order consistent with the Viewer's Reports approving the redetermination of benefits, payment for grass buffer, confirming damages, and directing payment.

RESOLVED FURTHER, That all costs associated with redetermination of benefits and damages for County Ditch #4 shall later be assessed against those lands benefitted as set forth in Minn. Stat. § 103E.

Unanimously adopted February 7, 2023.

At 2:58 p.m., February 7, 2023, Commissioner Boyle, supported by Commissioner McDonald, moved to adjourn the meeting. The motion passed; seven yeas, zero nays.

Keith Nelson, Chair of the Drainage Authority

Phil Chapman, Deputy Auditor/Clerk of the County Board



St. Louis County Drainage Authority Request for Action 23 - 03 Establish Public Hearing

From: James T. Foldesi, Public Works Director/
Highway Engineer

Date: October 24, 2023

Attachments: ☐ yes ☒ no

Reviewed by: Kevin Z. Gray, County Administrator

Consent: ☐ yes ☒ no

ITEM: Establish Public Hearing on Engineer's Repair Report for County Ditch #4

Background/Overview:

On January 7, 2020, attorney John Kolb, on behalf of Petitioners Tom Horvath and Ed Nelson, submitted a Petition to Repair St. Louis County Ditch #4, pursuant to Minn. Stat. §103E.715.

St. Louis County Ditch #4 was constructed more than 100 years ago and likely needs repair. However, prior to any determinations and recommendations for repair it was determined by the Drainage Authority in June 2021, that current drainage records were inadequate as they have been lost, destroyed, or are otherwise incomplete and required reestablishment. That process was completed August 4, 2022, along with partial abandonment of a significant portion of the system no longer providing a benefit. Concurrently, County Ditch #4 was evaluated by Houston Engineering for repair options as required by statute.

Likewise, the Drainage Authority found the 1916-1917 benefits and damages of record for County Ditch #4 do not reflect reasonable present-day land values and ordered benefits and damages be redetermined pursuant to Minn. Stat. §103E.351. That process was completed February 7, 2023.

During the summer of 2023, Houston Engineering submitted an Engineer's Repair Report outlining multiple repair options for County Ditch #4. On September 13, 2023, an informational meeting was held to present affected landowners with repair options and receive input from them. In attendance were representatives from the St. Louis County Board, Public Works, Attorney's Office, and Houston Engineering. Approximately 20 property owners were in attendance.

This matter now requires a hearing be held pursuant to Minn. Stat. §103E.715, subdivisions 3 and 4. The hearing must occur not more than 30 days after the date of the order for a hearing on the repair report. The date identified by staff for such a hearing is November 14, 2023.

Policy Objectives:

Comply with the requirements of Minn. Stat. §103E.

Fiscal/Budget Impacts/Funding Source/FTE Considerations:

All costs associated with ditch repair are borne by benefitted properties, including roads. St. Louis County, as road authority, will bear a significant portion of all costs associated with any expenditures on St. Louis County Ditch #4.

Recommendation:

It is recommended that the St. Louis County Drainage Authority convene and establish a hearing to occur on November 14, 2023 at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse Duluth, Minnesota, to address the Engineer's Repair Report and recommendations for St. Louis County Ditch #4.

Establish Public Hearing on Engineer's Repair Report – St. Louis County Ditch #4

BY COMMISSIONER _____

WHEREAS, Pursuant to Minn. Stat. §103E, the St. Louis County Board is required to convene as the County Drainage Authority to discuss and approve pending matters related to county ditches; and

WHEREAS, The County Drainage Authority received a petition for the repair of County Ditch #4; and

WHEREAS, The County Drainage Authority subsequently ordered County Ditch #4 be examined and a repair report produced by Houston Engineering; and

WHEREAS, The County Drainage Authority is in receipt of the Engineer's Repair Report; and

WHEREAS, Minn. Stat. §103E requires that the County Drainage Authority hold a hearing on the Engineer's Repair Report.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes a hearing regarding the Engineer's Repair Report for St. Louis County Ditch #4 to occur November 14, 2023, at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse, Duluth, Minnesota.