

**ST. LOUIS COUNTY DRAINAGE AUTHORITY**

**AGENDA**

**January 24, 2023**

**Immediately following the County Board meeting.**

1. Call to order/roll call
2. Minutes for August 2, 2022
3. Drainage Authority Letter No. 23-01 Establishment of Public Hearing, Redetermination of Benefits and Damages for County Ditch #4
4. Other business
5. Adjourn

## ST. LOUIS COUNTY DRAINAGE AUTHORITY PROCEEDINGS

Tuesday, August 2, 2022

The St. Louis County Drainage Authority meeting was called to order at 11:14 a.m., by Chair Keith Nelson in the St. Louis County Courthouse, Duluth, Minnesota, with the following members present: Commissioners Patrick Boyle, Ashley Grimm, Paul McDonald, Keith Musolf, Mike Jugovich, and Chair Keith Nelson - 6. Absent: Commissioner Frank Jewell - 1.

Commissioner McDonald, supported by Commissioner Jugovich, moved to approve the minutes of the June 28, 2022, St. Louis County Drainage Authority meeting. The motion passed; six yeas, zero nays, one absent (Jewell).

At 11:16 a.m., a public hearing was conducted regarding the reestablishment of records for County Ditch #4. St. Louis County Assistant Attorney Chris Pinkert said that Chris Otterness, of Houston Engineering, Inc., and Matthew Beyer, of St. Louis County Public Works, would provide the initial presentation. Mr. Otterness provided the Board a handout and reviewed the records reestablishment process. Matthew Beyer said that the Public Works Department has spent multiple hours in the field and recommends that the Board adopt the reestablishment of records. Chair Nelson asked if there were any governmental entities or supporters who wished to speak regarding the proposed action; no one requested the opportunity to speak. Jim Dusek, of Floodwood, requested that the Board exclude portions as outlined on sheet #5 and noted that portions of the legal drain will flow through a wooded draw. Chair Nelson asked if there were any other citizens who wished to speak regarding the proposed action; no one requested the opportunity to speak. Matthew Beyer said that Public Works opposes removal of the portions outlined on sheet #5 and noted there are multiple examples of drainage through wooded draws throughout the state. At 11:43 a.m., Commissioner Boyle, supported by Commissioner Jugovich, moved to close the public hearing. The motion passed; six yeas, zero nays, one absent (Jewell).

Commissioner Boyle, supported by Commissioner Jugovich, moved that the St. Louis County Board, acting in the capacity of the County Drainage Authority, hereby accepts and approves the official records for County Ditch #4 as reestablished in the Engineer's Report submitted by Houston Engineering, Inc., and further, that all costs associated with reestablishing records for County Ditch #4 shall be assessed against those lands benefitted as set forth in Minn. Stat. §103E. The motion passed; six yeas, zero nays, one absent (Jewell). Resolution No. 22-02

At 11:48 a.m., a public hearing was conducted regarding the petition for partial abandonment of the County Ditch #4 system. Chris Otterness provided the Board an overview of the purpose of the partial abandonment and outlined recommended abandonments relating to Ditch #4. Matthew Beyer provided the Board a handout containing written public comments and concerns. Chair Nelson asked if there were any governmental entities or supporters who wished to speak regarding the proposed action; no one requested the opportunity to speak. Christina Woods, of Duluth, asked if the 1854 Treaty Authority was notified of the petition. Jim Walzak, of Meadowlands, said that the portion of the ditch north of their farm is critical for the operation of their feed lot and abandonment of that portion would be a loss of investment for them. Matthew Beyer stated that the county followed all state statutes regarding notification and commented that they recommend abandonment of the area north of the Walzak farm. Mr. Beyer noted that there is a beaver dam located above the property and a solution to the problem could be the elimination of the dam. In response to Ms. Woods question,

Attorney Pinkert noted that the county complied with all notification requirements. At 12:12 p.m., Commissioner McDonald, supported by Commissioner Boyle, moved to close the public hearing. The motion passed; six yeas, zero nays, one absent (Jewell).

Commissioner Jugovich, supported by Commissioner Boyle, moved that County Drainage Authority approve the Petition for Partial Abandonment for the County Ditch #4 system. The motion passed; six yeas, zero nays, one absent (Jewell). Resolution No. 22-03

Commissioner Boyle, supported by Commissioner Jugovich, moved that Petitioner Tom Horvath's request for payment of his attorneys' fees in the amount of \$7,113.00 is granted with payment paid from Fund 215, Agency 215004, Object 626600, with funding coming from Fund 215, Agency 999999, Object 311037 (Ditching Fund Balance), and further, that the payment of attorneys' fees shall be assessed against those lands benefitted by County Ditch #4 in the manner prescribed in Minn. Stat. § 103E. Attorney Pinkert commented that he reviewed the reimbursements and they were reasonable. The motion passed; six yeas, zero nays, one absent (Jewell). Resolution No. 22-04

### **COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 22-02**

#### **BY COMMISSIONER BOYLE:**

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 Reestablishment of Records pursuant to Minn. Stat. §103E.101 for County Ditch #4; and

WHEREAS, The County Drainage Authority has received an Engineer's Report regarding Reestablishment of Records for County Ditch #4; and

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

WHEREAS, The County Drainage Authority, on this day, held a public hearing and heard testimony from Houston Engineering and all others regarding Reestablishment of Records for County Ditch #4.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board, acting in the capacity of the County Drainage Authority, hereby accepts and approves the official records for County Ditch #4 the records as reestablished in the Engineer's Report submitted by Houston Engineering, contained in Drainage Authority File No. 61750.

RESOLVED FURTHER, That all costs associated with reestablishing records for County Ditch #4 shall be assessed against those lands benefitted as set forth in Minn. Stat. §103E.

Unanimously adopted August 2, 2022.

## COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 22-03

### BY COMMISSIONER JUGOVICH:

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 Drainage Authority received a Petition for Repair of County Ditch #4; and

WHEREAS, The Drainage Authority subsequently ordered the Reestablishment of Records for County Ditch #4 and the review of the system for potential partial abandonment; and

WHEREAS, The Drainage Authority received an Engineer's Report regarding Reestablishment of Records for County Ditch #4 and proposed segments for abandonment; and

WHEREAS, The Drainage Authority received a Petition for Partial Abandonment of County Ditch #4; and

WHEREAS, The Drainage Authority held a public hearing and reestablished the records for County Ditch #4; and

WHEREAS, Following the public hearing and action on Reestablishment of Records, a public hearing was held on the Petition for Partial Abandonment pursuant to Minn. Stat. §103E; and

WHEREAS, The Drainage Authority received testimony from Houston Engineering, St. Louis County Public Works, and all others wishing to speak to the partial abandonments; and

WHEREAS, The Drainage Authority has concluded the proposed partial abandonments are appropriate as those segments no longer provide public benefit and utility and do not serve a substantial useful purpose to property remaining in the system.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board, acting in the capacity of the County Drainage Authority, hereby approves the Petition for Partial Abandonment and orders the following segments of County Ditch #4 abandoned:

Ditch System No.	Segment ID	MILES	St. Louis County Transverse Mercator (ft)			
			Start North	Start East	End North	End East
CD #4	M1C	1.00	221592.85	400834.52	226826.36	400879.79
CD #4	M1D	1.00	226826.36	400879.79	232141.52	400891.45
CD #4	M1G	0.50	245068.03	400801.76	247765.12	400767.43
CD #4	M1H	0.75	247765.12	400767.43	251800.51	400712.66
CD #4	M1I	1.00	253051.34	400682.12	258264.67	400683.45
CD #4	M2B	0.25	220231.99	403466.28	221567.66	403477.38
CD #4	M2C	1.00	221567.66	403477.38	226780.10	403533.96
CD #4	M2D	1.00	226780.10	403533.96	232079.27	403549.67
CD #4	M2E	1.00	232079.27	403549.67	237193.74	403559.86

CD #4	M2F	1.00	237193.74	403559.86	242421.61	403491.37
CD #4	M2J	1.00	258290.60	403308.66	263488.37	403261.50
CD #4	M3C	0.25	225430.42	406081.88	226752.84	406078.92
CD #4	M3D	1.00	232039.86	406149.41	226752.84	406078.92
CD #4	M3E	1.00	232039.86	406149.41	237198.56	406158.93
CD #4	M3F	1.00	249068.77	406033.53	237198.56	406158.93
CD #4	M3G	0.65	242409.08	406142.40	242409.08	406142.40
CD #4	M3H	0.60	245885.12	406085.95	245885.12	406085.95
CD #4	M3J	0.75	259605.22	405315.75	263500.27	405875.04
CD #4	M3K	0.80	263500.27	405875.04	267656.55	405881.07
CD #4	M4D	0.80	227699.39	408768.11	231973.80	408781.54
CD #4	M4E	1.00	231973.80	408781.54	237196.65	408792.23
CD #4	M4F	1.00	237196.65	408792.23	242464.62	408785.41
CD #4	M4G	0.35	242464.62	408785.41	244368.52	408742.58
CD #4	M4L	1.00	267655.24	407340.31	272915.57	407382.81
CD #4	M4M	0.60	272915.57	407382.81	275897.25	407424.06
CD #4	M5F	1.00	237198.33	411435.67	242465.49	411319.82
CD #4	M5L	1.00	267639.96	409979.36	272893.25	410044.02
CD #4	M6K	0.60	263639.15	413302.43	266692.19	413252.83
CD #4	L2A	0.75	221592.85	400834.52	221544.21	404791.32
CD #4	L3A	1.00	226826.36	400879.79	226752.84	406078.92
CD #4	L3B	0.25	226752.84	406078.92	226725.88	407439.34
CD #4	L4A	1.00	232141.52	400891.45	232039.86	406149.41
CD #4	L4B	0.75	232039.86	406149.41	231942.37	410003.25
CD #4	L5A	1.00	237184.48	400882.25	237198.56	406158.93

CD #4	L5B	1.00	237198.56	406158.93	237198.33	411435.67
CD #4	L6A	0.75	242438.56	402132.61	242409.08	406142.40
CD #4	L6B	1.00	242409.08	406142.40	242465.49	411319.82
CD #4	L7A	1.00	245068.03	400801.76	245044.89	406097.96
CD #4	L7B	0.25	245885.12	406085.95	246238.69	407454.09
CD #4	L9A	0.30	253020.20	403313.48	252995.70	404900.74
CD #4	L10A	0.50	258264.67	400683.45	258290.60	403308.66
Ditch System No.	Segment ID	MILES	St. Louis County Transverse Mercator (ft)			
			Start North	Start East	End North	End East
CD #4	L11A	0.50	263488.37	403261.50	263500.27	405875.04
CD #4	L11B	0.25	263534.47	407230.04	263567.25	408531.03
CD #4	L12B	1.00	267656.55	405881.07	267635.47	411166.16
CD #4	L13B	0.50	272915.57	407382.81	272893.25	410044.02

RESOLVED FURTHER, That all costs associated with the Petition for Partial Abandonment of County Ditch #4 shall be assessed against those lands benefitted as set forth in Minn. Stat. §103E. Unanimously adopted August 2, 2022.

#### **COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 22-04**

##### **BY COMMISSIONER BOYLE:**

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 Repair of County Ditch #4; and

WHEREAS, The County Drainage Authority, as a direct result of the Petition to Repair, ordered the Reestablishment of Records for County Ditch #4, Redetermination of Benefits, and evaluation of the system for potential partial abandonment; and

WHEREAS, Minn. Stat. §103E.645, Subd. 5, requires payment of Petitioner's attorneys' fees in this situation; and

WHEREAS, Minn. Stat. §103E.725 requires all fees and costs incurred for proceedings relating to the repair of a drainage system be assessed against the property and entities benefitted; and

WHEREAS, Petitioner has submitted ample documentation for his request for attorneys' fees; and

WHEREAS, The Drainage Authority believes Petitioner's request for attorneys' fees to be reasonable; and

WHEREAS, The Drainage Authority has no legal basis to award Petitioner's requested reimbursement of fees paid to Ed Nelson; and

WHEREAS, Minn. Stat. §§ 103E.655, 103E.725, and 103E.731 provide a mechanism for monies to be borrowed from the general ditch fund for this contract, to be reimbursed via collection of assessments against those lands benefitted by County Ditch #4.

THEREFORE, BE IT RESOLVED, That Petitioner Tom Horvath's request for payment of his attorneys' fees in the amount of \$7,113.00 is granted with payment paid from Fund 215, Agency 215004, Object 626600, with funding coming from Fund 215, Agency 999999, Object 311037 (Ditching Fund Balance).

RESOLVED FURTHER, That this payment of attorneys' fees shall be assessed against those lands benefitted by County Ditch #4 in the manner prescribed in Minn. Stat. § 103E.

Unanimously adopted August 2, 2022.

At 12:15 p.m., August 2, 2022, Commissioner Boyle, supported by Commissioner McDonald, moved to adjourn the meeting. The motion passed; six yeas, zero nays, one absent (Jewell).

---

Keith Nelson, Chair of the Drainage Authority

---

Phil Chapman, Deputy Auditor/Clerk of the County Board

# **COUNTY DRAINAGE AUTHORITY NO. 23 – 01**

**DATE:** January 24, 2023                      **RE:** Establishment of Public  
Hearing, Redetermination of  
Benefits and Damages for  
County Ditch #4

**FROM:** Kevin Gray  
County Administrator

James T. Foldesi  
County Engineer/Public Works Director

## **RELATED DEPARTMENT GOAL:**

To provide a safe, well maintained ditch system as required by Minn. Stat. §103E.

## **ACTION REQUESTED:**

It is requested that the County Drainage Authority establish a public regarding Redetermination of Benefits and Damages for St. Louis County Ditch #4.

## **BACKGROUND INFORMATION:**

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 2, 2022, along with partial abandonment of a significant portion of the system no longer providing a benefit.

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.

Because St. Louis County Ditch #4 was partially abandoned effective August 2, 2022, two sets of benefits and damages were produced representing pre-partial abandonment and post-partial abandonment responsibility for property owners. These data sets were contained within two separate Viewer's Reports. This was done to ensure equitable cost sharing for all processes related to St. Louis County Ditch #4 in its pre-partial abandonment state.

St. Louis County received a copy of the Viewer's Reports from H2Overviewers, LLC, in December of 2022. Individual Property Owner's Reports were produced and were mailed on behalf of the St. Louis County Auditor in late December 2022.



As a final step in the redetermination of benefits and damages process, a final hearing must be held by the Drainage Authority to confirm the benefits and damages and benefited and damaged areas. Statutorily required notices have been provided to all affected parties and entities as documented in Board File 61308.

**RECOMMENDATION:**

It is recommended that the County Drainage Authority establish a hearing to consider the two sets of redetermined benefits and damages for St. Louis County Ditch #4 and order a final hearing to occur on the previously noticed date of February 7, 2023, at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse, Duluth, Minnesota.

**Establishment of Public Hearing, Redetermination of Benefits and Damages for  
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 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 pre- and post-partial abandonment benefits and damages numbers for County Ditch #4; and

WHEREAS, Minn. Stat. §103E requires that the County Drainage Authority hold a final hearing on these matters.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes a final hearing regarding the redetermination of benefits and damages for St. Louis County Ditch #4 to occur February 7, 2023, at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse, Duluth, Minnesota.

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