

ST. LOUIS COUNTY DRAINAGE AUTHORITY

AGENDA

June 22, 2021

Immediately following the County Board meeting.

1. Call to order/roll call.
2. Minutes for August 4, 2020.
3. Drainage Authority Letter No. 21-01 and Proposed Resolution
4. Other business.
5. Adjourn.

ST. LOUIS COUNTY DRAINAGE AUTHORITY PROCEEDINGS

Tuesday, August 4, 2020

The St. Louis County Drainage Authority meeting was called to order at 11:11 a.m., by Chair Keith Nelson in the St. Louis County Courthouse, Duluth, Minnesota, with the following members present: Commissioners Frank Jewell, Patrick Boyle, Beth Olson, Paul McDonald, Keith Musolf, Mike Jugovich and Chair Keith Nelson - 7. Absent: None - 0.

Commissioner Olson attended by WebEx.

Commissioner Jewell, supported by Commissioner Jugovich, moved to approve the minutes of the July 28, 2020, St. Louis County Drainage Authority meeting. A roll call vote was taken and the motion passed; seven yeas, zero nays.

At 11:14 a.m., a public hearing was conducted pursuant to Resolution No. 20-02, adopted June 23, 2020, on the County Ditch #4 Repair Petition. St. Louis County Assistant Attorney Chris Pinkert provided the Board with an overview of the ditch process. One of the Board's responsibilities is to determine if repairs are in the best interest of property owners. Deputy Public Works Director Brian Boder said that ditch #4 has 69.18 miles of ditch; the estimated cost to repair the total ditch system would be approximately \$5,066,970. The petitioned area contains 29.2 miles of ditch; estimated cost to repair the petitioned area is approximately \$2,285,890. John Kob, of Rinke Noonan Law Firm, spoke on behalf of the petitioners and said that the petition was intended to spur the Board to take action because County Ditch #4 is not working and the petitioners have been trying to get the issue resolved for a number of years. Chair Nelson asked if there were any governmental entities who wished to speak. Elmer Township Supervisor Dean Matvey addressed the Board and was concerned about the timing of repair decisions since the town board meets quarterly. In addition, Mr. Matvey also was concerned about the shifting of ditch maintenance costs to township residents. Chair Nelson asked if there were any supporters who wished to speak. Ed Nelson, of Hibbing, said that water has crept up since the county stopped ditching in the 1990's. Tom Horvath, of Meadowlands, commented on the impact on his business due to the lack of maintenance of the ditch system; some ditches remain full after two inches of rain. Tony Kozumplik, of Meadowlands, said that the sitting water in the ditch is affecting the land and roads. Mike Walzak, of Meadowlands, commented that he is losing money because the ditches are not draining properly. Chair Nelson asked if there are opponents who wished to speak. John Heikkinen, of Hermantown, commented that he is opposed to the ditch repair petition due to the financial impact to landowners. Chair Nelson asked if there were any other citizens who wished to speak regarding the proposed action, and no one asked for the opportunity to speak. At 12:21 p.m., Commissioner Boyle, supported by Commissioner McDonald, moved to close the public hearing. A roll call vote was taken and the motion passed; seven yeas, zero nays.

Commissioner Jugovich, supported by Commissioner Nelson, moved that based on input and evidence provided at the hearing, the Drainage Authority makes the following Findings of Fact and Order as to the repair petition: Findings of Fact - 1. The Drainage Authority finds the 1916-1917 benefits and damages of record for County Ditch #4 do not reflect reasonable present-day land values; and further, that the St. Louis County Board of Commissioners, acting as Drainage Authority

for County Ditch #4, orders that the St. Louis Public Works Department shall perform a redetermination of benefits for County Ditch #4 and shall pursue the hiring of Ditch Viewers and an Engineer with the appropriate qualifications to perform the work in a timely manner. The motion passed; seven yeas, zero nays. Resolution No. 20-04

COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 20-04

BY COMMISSIONER JUGOVICH:

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

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

WHEREAS, The Drainage Authority established a public hearing on the petition for August 4, 2020, and gave due notice by publication to all persons interested in the repair and by mail to petitioners, affected landowners, affected political subdivisions, and affected entities; and

WHEREAS, On August 4, 2020, the Drainage authority, pursuant to proper notice, held a public hearing on the repair petition and received input from affected and interested parties, as well as county staff regarding their work on this matter; and

WHEREAS, The values representing benefits, damages, etc., for the County Ditch #4 system are over one-hundred years old; and

WHEREAS, The Drainage Authority believes the recorded benefits and damages for County Ditch #4 do not reflect reasonable present day values; and

WHEREAS, The Drainage Authority desires to make an informed decision regarding the best interests of the affected parties.

THEREFORE, BE IT RESOLVED, That based on input and evidence provided at the hearing, the Drainage Authority makes the following Findings of Fact and Order as to the repair petition:

FINDINGS OF FACT

1. The Drainage Authority finds the 1916-1917 benefits and damages of record for County Ditch #4 do not reflect reasonable present-day land values.

ORDER

IT IS THEREFORE ORDERED by the St. Louis County Board of Commissioners, acting as Drainage Authority for County Ditch #4, that the St. Louis Public Works Department shall perform a redetermination of benefits for County Ditch #4 and shall pursue the hiring of Ditch Viewers and an Engineer with the appropriate qualifications to perform the work in a timely manner.

Unanimously adopted August 4, 2020.

At 12:29 p.m., August 4, 2020, Commissioner Jewell, supported by Commissioner Boyle, moved to adjourn the meeting. A roll call vote was taken and the motion passed; seven yeas, zero nays.

Keith Nelson, Chair of the Drainage Authority

Phil Chapman, Deputy Auditor/Clerk of the County Board

COUNTY DRAINAGE AUTHORITY NO. 21 - 01

DATE: June 22, 2021

**RE: County Ditch #4 Repair Petition
– Reestablishment of Records,
Partial Abandonment**

FROM: Kevin Z. Gray
County Administrator

James T. Foldesi
County Engineer/Public Works Director

RELATED DEPARTMENT GOAL:

To administer county ditch systems.

ACTION REQUESTED:

The St. Louis County Board, acting as the County Drainage Authority ("Drainage Authority") is requested to authorize reestablishment of records for County Ditch #4, evaluation of the system for the potential abandonment of ditch sections, and assessment of associated costs against properties benefitted by County Ditch #4.

BACKGROUND:

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. On August 4, 2020, pursuant to proper notice, a public hearing was held to consider the Petition after which the Drainage Authority adopted Resolution No. 20-04, authorizing redetermination of benefits for County Ditch #4.

After the August 4, 2020, Resolution, St. Louis County Public Works consulted with experts in the field regarding redetermination of benefits. During those consultations, another potential issue was identified. The records defining 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 may not be adequate to accurately determine benefits for County Ditch #4 or for reconstruction purposes.

Public Works conducted an extensive records search related to County Ditch #4, finding little of value in the St. Louis County Assessor's Office, St. Louis County Auditor's Office, Consolidated Abstract Archives, Historical Society in St. Paul, and the UMD Historical Society.

In order to move forward with redetermination of benefits for, or repair of, County Ditch #4, records must be reestablished regarding the original alignment and any subsequent improvements, cross-section, profile, hydraulic structure locations, materials, dimensions, elevations, and right-of-way.

Minn. Stat. Section 103E.101, subdivision 4a(b), provides a Drainage Authority may initiate reestablishment of records on its own motion.

Additionally, Public Works seeks authorization to have County Ditch #4 concurrently evaluated for sections of the ditch that are not of public benefit and utility and do not serve a substantial useful purpose to property remaining in the system for purposes of abandonment of those sections.

Finally, Public Works requests all costs associated with these recommendations be assessed against County Ditch #4 as provided by Minn. Stat. Chapter 103E.

RECOMMENDATION:

It is recommended that the County Drainage Authority authorize the St. Louis County Public Works Department to pursue the hiring of consultants and engineers with the appropriate qualifications to perform reestablishment of records and partial abandonment evaluation for County Ditch #4 in a timely manner. It is further recommended the Drainage Authority order all costs associated with these matters be assessed against County Ditch #4.

**County Ditch #4 Repair Petition – Reestablishment of Records and Partial
Abandonment Study**

BY COMMISSIONER _____

WHEREAS, Pursuant to Minn. Stat. Chapter 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, Minn. Stat. Chapter 103E allows for reestablishment of records where, after thorough investigation, the records defining 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 are found to be lost, destroyed, or otherwise incomplete; and

WHEREAS, The St. Louis County Public Works Department completed a thorough investigation into the records related to County Ditch #4 and found the records to be incomplete; and

WHEREAS, The Drainage Authority requires accurate and complete records in order to proceed with any repair of County Ditch #4; and

WHEREAS, St. Louis County Ditch #4 may contain sections of ditch that are no longer of public benefit and utility and do not serve a substantial useful purpose to property remaining in the system; and

WHEREAS, Minn. Stat. Chapter 103E provides all costs associated with establishment, maintenance, and repair of a ditch system are borne by the owners of land benefitted by the ditch system.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting as the County Drainage Authority, hereby makes the following Findings of Fact and Order as to County Ditch #4:

FINDINGS OF FACT

1. The records for St. Louis County Ditch #4 are inadequate as they have been lost, destroyed, or are otherwise incomplete.

ORDER

IT IS THEREFORE ORDERED by the St. Louis County Board of Commissioners, acting as Drainage Authority for St. Louis County Ditch #4, that the St. Louis County Public Works Department shall perform a reestablishment of records for St. Louis County Ditch #4 and pursue the hiring of consultants and engineers with the appropriate qualifications to perform the work in a timely manner.

IT IS FURTHER ORDERED that the St. Louis County Public Works Department shall pursue partial abandonment of appropriate sections of County Ditch #4 and shall pursue the hiring of consultants and engineers with the appropriate qualifications to study and recommend such sections.

IT IS FURTHER ORDERED that all costs associated with reestablishment of records and evaluation of the system for potential partial abandonment of sections be assessed against those lands benefitted by County Ditch #4 in the manner prescribed in Minnesota Statutes Chapter 103E.