

BENTON COUNTY DITCH AUTHORITY  
Tuesday, February 4, 2020  
Benton County Board Room

The Benton County Ditch Authority met in special session on February 4, 2020 in the Benton County Board Room in Foley, MN with Board members Ed Popp, Warren Peschl, Spencer Buerkle and Steve Heinen present and Board member Jake Bauerly absent (excused). Also present was Chris Byrd, County Engineer; Michelle Meyer, Assistant County Attorney; Monty Headley, County Administrator; and Vicki Feuling, Administrative Assistant.

Call to order by County Board Chair, Spencer Buerkle, was at 10:50 AM.

Peschl/Heinen unanimous to approve the agenda as written.

Popp/Peschl unanimous that the 2020 Benton County Ditch Authority Chair and Vice-Chair mirror the 2020 County Board Chair and Vice-Chair (Spencer Buerkle for Chair and Warren Peschl for Vice-Chair).

Popp/Heinen unanimous to approve the minutes of October 15, 2019 as written.

Chris Byrd, County Engineer, referenced a draft report from Houston Engineering, noting that there were some possible changes to the alignment of County Ditch No. 6 due to some unauthorized ditch cleaning and realignment. He stated the need to reestablish the originally-constructed, and subsequently improved, condition; this is where all future repair projects could repair back to. Byrd explained that before the Board can accept the draft report as being final, the Drainage Authority needs to complete the formality of appointing a Ditch Engineer to oversee matters as relating to the reestablishment of ditch records and any necessary ditch repairs.

Byrd read the prepared "Findings and Order Initiating the Reestablishment of County Ditch No. 6 Drainage System Records" into the record:

- The Benton County Drainage Authority is the drainage authority for Benton County Ditch No. 6.
- After thorough investigation of the drainage system record, the drainage authority finds that the records establishing the alignment, profile, and right-of-way of Benton County Ditch No. 6 are incomplete.
- The Board has reviewed a brief history of the system contained in a combined historical review memorandum for Benton County Ditch No. 6 dated July 16, 2019. Said history is incorporated by reference into these findings and order.
- The Board reviewed and approved a contract with Houston Engineering on August 6, 2019 to provide consulting services on Benton County Ditch No. 6.
- Minn. Stat. § 103E.101, subd. 4a, allows the drainage authority to initiate proceedings to reestablish records defining the alignment; cross-section; profile; hydraulic structure locations; materials; dimensions and elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.
- 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. 6, hereby orders as follows:
  - The Board shall follow the procedures of Minn. Stat. § 103E.101, sub. 4a, to reestablish and correct the drainage system record for Benton County Ditch No. 6 to reflect the functional alignment, dimension, grade, and right-of-way of the system.

- Engineer Chris Byrd, Benton County Public Works Director, is hereby 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 Benton County Ditch No. 6. The engineer, to the extent not already accomplished in its analysis supporting the historical review memorandum, 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.

Meyer commented "...your engineer has disclosed to you that we do not have adequate records to show how it was constructed...that is our standard as-constructed, not as-designed...at this point, you would ask to initiate, based on that finding by your engineer, a reestablishment of your drainage records and appoint Chris Byrd as ditch engineer..." Peschl/Heinen unanimous to adopt the "Findings and Order Initiating the Reestablishment of County Ditch No. 6 Drainage System Records" (appointing Chris Byrd as ditch engineer and authorizing initiation of proceedings to reestablish drainage system records defining the drainage system as originally constructed or subsequently improved).

Meyer noted that the Board has now received and reviewed the preliminary report from Houston Engineering, and determined that this warrants reestablishment of the records; the Board should now determine the date and time for the public hearing. A suggested public hearing date was April 7<sup>th</sup> at 10:30 AM. Peschl/Heinen unanimous to adopt the "Findings and Order Directing the Reestablishment of County Ditch No. 6 Drainage System Records" (setting the public hearing for April 7, 2020 at 10:30 AM).

In another matter, Byrd reported that Mille Lacs County is completing a redetermination of benefits for County Ditch 1 within the boundaries of Mille Lacs County. He pointed out that a preliminary investigation determined that the watershed contributing to Mille Lacs County Ditch 1 extended beyond the county boundaries; this will lead to the creation of a Judicial Ditch. Byrd explained that creation of a Judicial Ditch may require Benton County to enter into a Joint Powers Agreement with Mille Lacs and Sherburne Counties; it will also require at least one Benton County Commissioner to sit on this Joint Powers Board when addressing matters associated with this Judicial Ditch. No action taken at this time.

Peschl referenced the drainage issues with County Ditch 3 as reported by several individuals during the Open Forum portion of today's County Board meeting. Byrd commented "...it has been a contentious ditch all through its history...currently the ditch starts between our County Road 75 and MnDOT Highway 23 southwest of what was known as the Honda House...and it continues north...where it stops today is where it starts to cross under Minnesota State Highway 10...years ago, this ditch continued farther north and east, eventually draining into the Mississippi through what was known as Potter's Creek...I believe it was back in the 80's that the County Board went through actions and abandoned a portion of that ditch to where it is currently today...McConnell lives south of the ditch just east of St. Cloud along our County Road 8...if you look on a map, that same alignment or open water is connected...as defined, it's not a county ditch where it crosses under County Road 8...there is a belief that some of that water should be splitting...some going to the north and some going to the south...it crosses under the old BNSF railroad bed and just in the past year, or maybe it's been two years now,

they had an out-of-state contractor come in and remove some railroad tracks...there might be some issue where they have left the ditch where it crossed under the old railroad tracks in a poor condition...maybe the whole ditch needs to be cleaned out, but it would be one of those things where we would go through the same process as County Ditch 6 to reestablish the original constructed, and subsequently improved, condition..." There was consensus to hold a meeting of the Ditch Authority following the next regular County Board meeting to further discuss this item. Byrd added "...this is a ditch with a zero fund balance...it is challenging when our ditch doesn't end at a receiving body of water..." Meyer suggested that the Board may wish to consider a redetermination of benefits and damages because there has been abandonment on this particular ditch.

Peschl/Heinen unanimous to adjourn at 11:13 AM.

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Spencer C. Buerkle, Chair  
Benton County Ditch Authority

ATTEST:

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Montgomery Headley  
Benton County Administrator