

Jackson County Judicial Ditch (JD) #30 Branch A-1 Lateral
Final Hearing
November 5, 2015

1. Call to order

Managers: Jim Buschena, Dale Bartosh, and Bruce Leinen

Staff: Jan Voit

Others: Chuck Brandel, I & S Group; Brian ; Bruce Sellers, Wendland, Sellers, and Bromeland; Kevin Nordquist, Jackson County; Dave Macek, Jackson County; Mike Tow, Tow Law Firm, Ltd.; Dave Henkels, Jackson County; Ron Ringquist, Tom Mahoney, Geoff Johnson, Jerry Daberkow, Mike Schulz, Marianne Burmeister, Dennis Daberkow, Jean Kocak, Florence Peterson, Armond Dorschner, Nancy Dorschner, Doug Hansen, Dave Hansen, Jer Burmeister, Lori Nesselth, Steve Cook, Mike Boyenga, and Nichole Kruse

The Board of Managers of the Heron Lake Watershed District (HLWD), acting as a drainage authority under Minnesota Statutes, Chapter 103E, held a final hearing on the petition to improve Jackson County JD #30, review the petition, the Engineer's Final Report, the Viewers' Report, the Department of Natural Resources (DNR) Commissioner's Final Advisory Report, and take testimony from all interested parties to determine whether to establish the proposed project or dismiss the petition. The board of managers was introduced. A quorum being present, Jim Buschena declared the meeting to be open at 8:34 p.m.

The petitioner's attorney, Bruce Sellers, was called upon to review the history of the project and proceedings to date.

2. Determine sufficiency of petition and bond

The first item of business was to determine the sufficiency of the petition. The petition was previously determined to be sufficient and the board has received no new information which would change that determination. The current bond on file with the petition has a balance of \$4,237.12, which is deemed adequate at this time.

3. Read DNR Commissioner's report

The next item of business was to permit the Commissioner of Natural Resources to give his final advisory report regarding the proposed drainage project. Whereas the Commissioner was not present, Jan Voit read the Commissioner's Final Advisory Report, dated September 14, 2015, into the record.

Jim Buschena made a motion to close discussion on the Commissioner's Final Advisory Report. Dale Bartosh seconded this. Motion carried unanimously.

4. Engineer's Report

The next item of business was to receive, review, and discuss the engineer's final report. Chuck Brandel gave a PowerPoint presentation that summarized the final engineer's report including an overview of the project, history of the ditch, separable maintenance, adequacy of outlet, and estimated costs. His recommendations were that the existing system is inadequate, the project is practical and necessary, and that the outlet is adequate. The engineer recommended ordering the improvement.

Chuck Brandel asked that if the projects are approved, they could be bid as one package rather than three separate projects.

A question was asked whether the road would be bored or dug through. It will be dug through.

Jim Buschena made a motion to close discussion on the engineer's report. Dale Bartosh seconded this. Motion carried unanimously.

5. Viewers' Report

The next item of business was to receive, review, and discuss the viewers' reports. Ron Ringquist, one of the viewers, presented a summary of the reports, and specifically reviewed: the method used to calculate benefits, the method used to calculate damages, and the net benefits of the project.

Ron Ringquist explained the redetermination and determination of benefits process, how the viewers work as a team, benefit classifications, income approach to value, and the benefits and damages statement. The benefits are greater than the costs. The entire cost is assessed only to those who are benefiting.

Jim Buschena made a motion to close discussion on the viewers' report. Dale Bartosh seconded this. Motion carried unanimously.

6. Taking and consideration of testimony by interested persons

The next item of business was to receive, review, and discuss testimony from any interested person relating to the project which has not been previously covered. Jim Buschena asked if anyone had any questions or concerns. No comments or questions were presented.

7. Action by the Board

Jim Buschena stated that since all reports and comment have been received and considered, the next item of business was for the board to make findings relative to establishment of the proposed project.

PROPOSED FINDINGS TO ESTABLISH PROJECT

Jim Buschena made a motion that based upon the evidence, the board find that the detailed survey report and viewers' report have been made and other proceedings have been completed under Minnesota Statutes, Chapter 103E. Dale Bartosh seconded this. Motion carried unanimously.

Dale Bartosh made a motion that based upon the evidence, the board find that the reports made or amended are complete and correct. Bruce Leinen seconded this. Motion carried unanimously.

Bruce Leinen made a motion that based upon the evidence, the board find that the damages and benefits have been properly determined. Jim Buschena seconded this. Motion carried unanimously.

Jim Buschena made a motion that based upon the evidence, the board find that the estimated benefits are greater than the total estimated cost, including damages. Dale Bartosh seconded this. Motion carried unanimously.

Dale Bartosh made a motion that based upon the evidence, the board find that the proposed drainage project will be of public utility and benefit, and will promote the public health. Bruce Leinen seconded this. Motion carried unanimously

Bruce Leinen made a motion that based upon the evidence, the board find that the proposed drainage project is practicable. Jim Buschena seconded this. Motion carried unanimously.

Jim Buschena made a motion that based upon the findings, the board issue its order: containing the drainage authority's findings, adopting and confirming the viewers' report as made or amended, and establishing the proposed drainage project as reported and amended. Dale Bartosh seconded this. Motion carried unanimously.

Dale Bartosh made a motion that the Jackson County Auditor be contacted by petitioner's attorney to confirm the length of time and number of annual statements in which the assessments for the project shall be paid and the interest rate to be borne by the drainage lien, and whether drainage bonds are to be issued to finance the construction, including the rate of interest for such bonds; and that this information be included in the final resolution and order. Bruce Leinen seconded this. Motion carried unanimously.

Bruce Leinen made a motion that the attorney for petitioners shall draft the resolution and order establishing the drainage project and forward the draft order to the watershed's attorney for review. Upon review and approval as to form and content by the watershed attorney, the resolution and order will be considered and adopted at the next open meeting of the board of managers, and duly issued forthwith. Jim Buschena seconded this. Motion carried unanimously.

Jim Buschena made a motion to adjourn the hearing at 8:46 p.m. Dale Bartosh seconded this. Motion carried unanimously.

Dale Bartosh
Secretary