

Heron Lake Watershed District (HLWD)
Final Hearing - Jackson County Judicial Ditch (JD) 19
September 28, 2017

1. Call to order

Managers: Bruce Leinen, Harvey Kruger, Jim Buschena, and Wayne Rasche

Manager absent: Gary Ewert

Staff: Jan Voit

Others: Chuck Brandel and Jacob Rischmiller, I+S Group (ISG); Dave Macek, Kevin Nordquist, and Scott McClure, Jackson County; Randy Markl and Nicholas Trauba, Department of Natural Resources (DNR); Bruce Sellers, Wendland Sellers Law Office; Kelly Rasche, City of Lakefield; Dave Svoboda, Dan Ruby, Ron Ringquist, Greg Tusa, Lee Schumann, Linda Jerlow, Marilyn Bauer, Larry Miller, Mike Buresch, Emil Buresch, Martha Buresch, Steve Voss, Dave Bauer, LeAnn Bauer, Chris Bauer, Gary Bailey, Doyle Svoboda, Dan Hodnefield, Merlyn Hodnefield, John Naurerth III, Phyllis Naurerth, Tim Tungland; other unidentified individuals may have been in attendance who chose not to sign the attendance sheet

Bruce Leinen called the meeting to order at 9:00 a.m. He read the following housekeeping items.

- Please turn your cell phones off or to vibrate. If you must answer a call, please take your conversation outside.
- When the public comment periods are open, please state your name for the record.
 - Five minutes will be allowed for each person to speak. A timer will be set to ensure that the timeframe is followed.
 - Each person is allowed to speak only once. At my discretion, persons may be allowed to speak a second time to respond to earlier comments. However, comments are limited to the new information, not for repeating previous comments.
 - Respect the person that is speaking. Please do not interrupt.
 - Side conversations should be taken outside.
 - When multiple comments on the same topic have been presented, I may request that further comments be limited to new information.
- These guidelines are printed on the back of the agenda for today's hearing. Your cooperation is greatly appreciated.

The Board of Managers of the HLWD, acting as a drainage authority under Minnesota Statutes, Chapter 103E, held a final hearing on the petition to improve Jackson County Judicial Ditch #19, review the petition, the Engineer's Final Report, the Viewers' Report, the Commissioner's and Director's Final Advisory Reports, 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, Bruce Leinen declared the meeting to be open.

2. Project and proceedings to date

The petitioner's attorney, Bruce Sellers was called upon to review the history of the project and proceedings to date. He explained that this project has been in the works for

quite some time. Informational meetings with landowners were held in 2012 and 2013. The petition was filed with the HLWD in April of 2015. Chuck Brandel, ISG was appointed as project engineer and did the preliminary engineering report (PER). The preliminary hearing was held. ISG was ordered to draft the final engineering report (FER). Another informational meeting with landowners was held in September of 2017. He has received lots of good feedback regarding the viewers' and engineer's reports. Mr. Brandel will be able to give the board the information to make your final decision on how to proceed.

3. 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 \$59,056.38, which is deemed adequate at this time.

4. Read 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 report into the record. It was noted that the engineer would address each of the DNR's specific comments, recommendations, and requirements during his report. A copy of the report is included with the hearing minutes.

Bruce Leinen asked if there were any questions or comments respecting the Commissioner's Final Advisory Report. Chuck Brandel responded to the comment about no work between April 15 and July 15. If this project is approved, it will be on the plan set, the specifications, and the instructions to bidders. The requirement will be discussed at the preconstruction meeting.

There are storage areas included in the project to reduce the peak flows to address the flooding concerns. There has been a grant applied for through the Board of Water and Soil Resources (BWSR) Clean Water Fund to pay for some of the outlet structures. Project is not dependent on the grant funds. The grant request also included some bioreactors. Bioreactors won't be incorporated in the project unless we get the grant funding. We are addressing the concerns.

Hearing no further comments or questions, Bruce Leinen closed discussion on the Commissioner's report.

5. Read Director's Report

The next item of business was to permit the Director of the BWSR to give his final advisory report regarding the proposed drainage project. Whereas the Director was not present, Jan Voit read the report into the record. It was noted that the engineer would address each of BWSR's specific comments, recommendations, and requirements during his report. A copy of the report is included with the hearing minutes.

Bruce Leinen asked if there were any questions or comments respecting the Director's Final Advisory Report.

Chuck Brandel reminded the managers that in the PER there were three options for the project. One of the options had a larger pond on the outlet. That plan had a 120” structure. The current plan has a 96” structure. He apologized for the confusion.

Hearing no further comments or questions, Bruce Leinen closed discussion on the Director’s report.

6. 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 FER and specifically reviewed the total estimated construction cost for the proposed project, whether the proposed project was practical and necessary, whether the outlet for the drainage project was adequate, and that separable maintenance would be included in the project. He provided a response to each of the comments, recommendations, and requirements of the DNR regarding the three crossings within the City of Lakefield; the Henslow sparrow issue; and option 3 for Toe Wildlife Management Area (WMA) and work restrictions in the WMA. He provided a response to the comment of the BWSR regarding the skimmer structure dimensions. He also summarized the changes that have been made based upon the landowner meeting that was held earlier in September: eliminating a portion of Branch N, the modification of the tile location in the Voss property, and an equalizer pipe between the wetland basins to make sure water does not back up to the south. A copy of the presentation is included with the hearing minutes.

Chuck Brandel stated that the total cost of the project is just over \$3.7 million. The cost to replace the entire system is just under \$2.8 million. There are multiple road crossings as well, the road authority is Jackson County Public Works. That is the brunt of the boring costs for the paved roads. That reduces the landowner cost to \$3,586,204. When the separable maintenance and road crossings are removed, the net improvement cost is just over \$1 million. The viewers’ have given this a benefit of just over \$1.1 million. The project has more benefit than cost, so it is cost-effective.

He talked about the potential modifications to Branches L6 and L7. \$3,700 for L6; -\$800 for L7. ISG asks that those changes be included in the project. The total project, instead of what is shown on the handout, is \$3,589,000. Those figures were finished on September 27. He brought a copy of the full report so that any questions regarding the project could be addressed.

Chuck Brandel stated that it is his opinion that the project is cost-effective, practical and feasible. It is a necessity and will be a public benefit to public welfare, and should be considered for final approval with the minor modifications presented.

Bruce Leinen asked if anyone had any questions or comments respecting the engineer’s final report.

Tim Tungland asked if the overflow in the DNR ground could be addressed. There is quite a bit of private tile daylighting into that. He asked if there was an agreement in place with

the DNR. He asked about the possibility of the ditch being cleaned. Or, if in future years it holds water back, how that would be handled. Chuck Brandel stated that he would like the elevations shown for the outlet, ditch, and tile to be maintained as part of the system. This is DNR property, so, if there needs to be a clean out, a permit or approval would be needed. He would like these elevations to become part of the ditch system record.

Chuck Brandel asked Randy Markl if he thought there would be an issue with that. Randy Markl stated that if it is part of the system and those elevations are a matter of record, he did not see an issue - in the old ditch through the wetland system or at the junction of where the outlet structures are for the easterly wetland.

Chuck Brandel stated that the main control points in this wetland are the outlet structure, which will be set the lowest and an 18" metal pipe and spillway. The spill with the metal pipe is half a foot lower than the spillway. There is a narrow ditch that the DNR has been maintaining.

Tim Tunglund asked if the narrow ditch would be excavated. Chuck Brandel replied that based on the elevations, it does not need it now. From a positive drainage standpoint, it does need to be maintained over the years. There is an existing 24" concrete pipe underneath the highway. We are adding a second one to make sure this basin doesn't bump higher than the rest of it. They work together.

Tim Tunglund said that he is more concerned with the one on the other side of the road. Chuck Brandel replied that he would like to see these elevations put into the record with the ditch system so they can be maintained.

Steve Voss said that he has concerns about the outlet going into the City of Lakefield. He wanted to know if landowners are paying for construction of the outlet as part of ditch 19. Chuck Brandel replied yes. The construction of the pond is part of the system. It will be maintained as part of the JD 19 system. If, 50 years from now, the outlet has an issue, the system can get it repaired.

Steve Voss asked about the legal aspect of going into the City of Lakefield. Chuck Brandel stated that the city will be paid damages for the land that is essentially being taken out of production. An easement will be placed over this and JD 19 will be extended through the pond.

Steve Voss asked if the outlet was being extended and if that was within reason with Minnesota statues. Chuck Brandel stated that it is allowed to extend an outlet one mile downstream. This is a lot less than a mile.

Steve Voss said that he was reading Minnesota Statutes 103D.705 Subd 2, which says that within the city a petition must be originated by that governing body. Chuck Brandel replied that this project is being done under Minnesota Statutes 103E. Steve Voss asked if that statute allowed the outlet to be extended up to a mile. Chuck Brandel said yes. He also stated that even though it wasn't required, he met with Tim Stahl, Jackson County and

Kelly Rasche, City of Lakefield. It was Chuck's understanding that this was presented to the city council. Kelly Rasche stated that the city is aware of this.

Tim Tungland asked that out of the \$3.5 million cost, what part is pipe and what part is labor? Chuck Brandel replied that the bid prices are for pipe and labor. They are not broken down. Pipe is probably 25 percent or less. Tim Tungland asked that in case something unforeseen happens and the price of pipe skyrocketed, would the project still have the benefits? Chuck Brandel said that he has included a 10 percent contingency. He met with one of the larger tile manufacturers on September 27, 2017. Because of the hurricanes they are having an issue getting resin. There will be a two to three month period where they will be adding a temporary price increase of five percent. He is confident that the contingency covers issues like that.

Chuck Brandel stated that if the project is bid and it comes in over budget, there are requirements in the statute that allow it not to be approved. We track our costs very closely. The last two years, costs have been going down. We take the average of the low four or five bids to use as our estimate. This year we have been seeing costs come in five to 10 percent below estimate.

Chuck Brandel said that if this project is approved, from a timeline standpoint, he did not see how it could start construction this year. If the project is approved, there is a 30-day appeal period. Plans and specifications would have to be advertised for 30 days. He would have to go to the board to set the hearing to accept the bid. That would get us almost into December. We see very good bid prices in January, February, and March. If this is approved, he recommended bidding it during that timeframe. That is when contractors are filling their books for the next year and the best prices would be seen at that time.

Bruce Leinen asked if there were any other questions or comments. Hearing none, he made a motion to close comments on the engineer's report as well as all previously discussed reports. Jim Buschena seconded this. Motion carried unanimously.

7. Viewers' Report

The next item of business was to receive, review, and discuss the viewers' reports. Dan Ruby, one of the viewers, explained the redetermination of benefits (ROB) process, how the viewers work as a team, benefit classifications, income approach to value, and the benefits and damages statement.

Ron Ringquist said that what Dan has presented was for the ROB. This is determining the value added because the current system exists, assuming everything is working as it did when it was installed 100 years ago. What he is talking about so far is what you already have for a change in property value as if there was no system there. That includes the original construction and the 1919 improvement. Addressing the board, there will have to be two actions on two separate reports. What he has described so far is just the ROB to come up with the value of the system that already exists.

Dan Ruby presented a summary of the viewers' 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 stated that one part that was not covered in the presentation is that the proposed improvement project does include an area of temporary damages to be paid to those landowners for the right of access through the growing season to construct the project. That is based upon two years cash rent value. It is not two straight years. One year we anticipate zero production. And then we allow for a pro-rated two or three years to bring it back into full production. This is because of compaction and the blending of soils during the construction period. The permanent right of access is already out there for the existing system. Because we are moving it over, that right of access will be acquired for future access by the payment of the damages. If there is crop damage for future maintenance, that is different. This is just buying the right of access for that new location. The damages are proposed to change from that report by one parcel where they removed some of the tile that is already in place in private tile, rather than public. There was a minor reduction in the damage values for the improvement as well. This will be included in the revised viewers' report.

Chuck Brandel showed the damages on the screen and stated that they were in the engineer's final report. The way they were calculated is they took the length of construction on each 40, multiplied by a width depending on the depth – either 100 feet or 150 feet, and gave that information to the viewers. Actual damages will be surveyed during construction. If the project moves forward, inspectors have handheld GPS to shoot construction edges. Actual payment will be based upon where construction occurred. If there are crop damages, a drone will be used to document locations. Landowners will be paid for what is damaged.

Bruce Leinen asked if the viewers had any other comments. They did not. He then asked if anyone had any questions or comments respecting the viewers' final report.

Wayne Rasche asked if the 30 and 7 acres were taken out in the last report. Dan Ruby said that he read the new numbers from the new report that he received this morning. Ron Ringquist said that, because of the recommended changes, though they are minor, they want the record to reflect the recommended benefit totals, including the recommended changes. The viewers' recommendation to the board would be to adopt the reports as submitted with the three recommended parcel changes.

Bruce Leinen asked if there were any further comments on the viewers' report. Hearing none, he made a motion to close discussion on the viewers' report. Wayne Rasche seconded this. Motion carried unanimously.

8. 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. Bruce Leinen asked if anyone had any questions or concerns that had not already been

discussed.

LeAnn Bauer stated that she maybe was not understanding all of this. She asked who pays the damages and where that money comes from. Ron Ringquist stated that damages are part of the project cost, just like construction. It will come from the ditch funds and be assessed back to the landowners as part of the project.

LeAnn Bauer stated that if a person has reviewed their portion of the project and they do not think that some of it is necessary, is there an option to meet with somebody and change that? Ron Ringquist replied that we tried to listen to those concerns and address those at a general meeting last week. If there are additional changes that you would like to see, the board hasn't taken any action to say that we will build this as proposed. If you have questions or concerns or other changes you think are necessary, those need to be addressed to the board now to be considered.

Dave Bauer asked if there is a branch that a landowner thinks is adequate, can it be subtracted to save money? Ron Ringquist replied yes, if there are parts that you want to add or subtract, the board has the right to continue the hearing and ask the engineer and viewers to go back out and make changes. If you have questions or comments, or want changes, you need to address them to the board today.

Dave Bauer stated that he was going to have some tile that is in the ground 14 or 15 feet. Is that taken into consideration as opposed to being six feet in the ground? Chuck Brandel replied that they have different widths factored throughout the system. We generally use 150 feet for deeper pipe and 100 feet for the shallower pipe. We want a safe trench and the side slopes to be safe. We don't want any construction issues. That is why we factor a wider trench for the deeper pipe. That is factored in throughout the entire system. To be safe, if we have a damage of 100 feet wide and the contractor needs 110, we will allow them to do that. We will not allow them to drive kitty-corner across a field or to make an access road that is not along the tile alignment. They must stay within the corridor of the tile alignment that will be disturbed.

Chuck Brandel stated that there is one other thing that he wanted to mention. There is a section of tile in section 35 that needs to remain part of the public system because of the way the system is being re-routed. That will be documented in the as-built if this moves forward. Where new tile is being constructed, the existing public tile will be abandoned. It will still be hooked up to the public system. The official abandonment of the tile will happen at the final acceptance hearing.

Tim Tunland stated that he was involved in a ditch project where they actually went through line by line and the landowners were there to decide if they were needed or not. Was there a meeting like that? Chuck Brandel said that meeting was held before the petition was submitted. The meeting that Mr. Tunland is referencing was on Jackson County Ditch 35. The petitioners requested to change the project. That is why we had that meeting. We have not gotten a request from petitioners to do that for this system.

Tim Tungland asked if this is dictated by the handful, the 26 percent? Chuck Brandel replied that is correct. Tim Tungland stated that there is no vote, but a lot of people are under the impression that there is a vote. Chuck Brandel replied that he was right about that. Tim Tungland said that a lot of people that are coming here to get a vote and get a say.

Chuck Brandel stated that if there is a branch that someone wants to consider removing, it should be brought up now and discussed. Tim Tungland said that it is hard to do that now because we do not have all the people involved here. We had talked about abandoning a branch, but one of the landowners is not here at the meeting. It never got hashed out to know if it could feasibly be done. Chuck Brandel replied that is part of the reason why the information meeting was held, to get people's mind around the fact that the project is here. Tim Tungland stated that is easier said than done to get everyone here. He was under the impression that there was going to be one meeting where we would sit down and go line by line. He didn't realize the petitioners had the ability to do that. Chuck Brandel replied that the petitioners have that right and that is what happened on Ditch 35.

Dave Macek stated that all the landowners that pay ditch tax on the system were mailed notice of the informational meetings that were held prior to the petition being submitted. Tim Tungland stated that there is an understanding issue. He realized that the proper procedures were followed, but it is difficult to understand if you have never gone through this before. Even he didn't understand that it was the petitioners on 35 who had called the meeting. That project was cut almost in half at that meeting.

LeAnn Bauer stated that the project they saw in 2014 is completely different than what we were mailed August 30, at least the prices. Chuck Brandel replied that the project follows the petition that was filed, all the branches and alignments that were in the petition, with some minor modifications, and some that were brought up at the meeting since then. Generally, the alignments have stayed.

Larry Miller stated that the dotted lines are where the old tile is and the solid green line will be the new tile. Chuck Brandel replied that he was correct.

Larry Miller said that it was his understanding that wherever the new tile crosses the old tile, the old tile hooked into the new tile and the old tile will become private. Chuck Brandel replied that it would become private tile and that it would also be hooked in at the property line. Larry Miller asked if this would be true with exception of one little stretch through Steve Voss's corner. Chuck Brandel replied yes.

Bruce Leinen asked that if he had a 40-acre tract and a branch that he felt was working correctly, could it be removed from the project? The cost for the maintenance of that branch doesn't get saved from my property, is it spread over whole system? Chuck Brandel said that portions of it would be, especially from the separable maintenance part of it. Upsizing the line would be the cost to all that drain into it. Approximately 30 percent would be saved on that branch line. It would vary depending on whether it is A, B, or C land.

Ron Ringquist stated that it may affect benefits as well. If it is an undersized system and you were satisfied with that limited restricted capacity, and you didn't improve it, you may not get the same amount of benefit. You will still get part of the benefit because the outlet will be improved, but it may not get the same benefit not the same as if the new tile was extended all the way through that parcel.

Chuck Brandel said that we are not required to have the informational meeting. We have it so we can get people thinking about the project again, get the information in their hands, and have them ask questions. We are doing what we can. But the hearing is also a time for them to bring that up. It is nice to get as much information as possible beforehand.

Lee Schumann asked about the 20-year process and if that was the normal taxation payback. Kevin Nordquist responded that in every system that Jackson County has done the landowners have wanted 20 years. They do have the option to pre-pay to avoid interest charges. We allow 20 years. Lee Schumann asked if 20 was the maximum number of years. Kevin Nordquist replied that it could go as long as 22 years. Lee Schumann stated that the numbers are such that it is a lot of dollars per acre per landowner. He is speaking for himself, but that is a lot of money that affects deeply in the pockets. He just wondered if there was an option to go longer.

Bruce Sellers stated that the longer it is spread out, the higher the interest rate. Kevin Nordquist said that it would probably cost more in interest.

Linda Jerlow asked if this is a typical price for tile. She figures her cost will be about \$2,300 per acre. That seems like a lot of money for tile. Bruce Leinen asked how it compares. Chuck Brandel replied that costs are very similar. JD 45 had a similar watershed. It is not in the HLWD, but it is in Jackson County and has a similar cost per acre. That project was approved earlier this year and is currently under construction. He has a couple projects that are higher cost per acre, just because of how bad of shape the tile were in and how undersized they were. Some watersheds that are approved that have open ditches are less per acre. In CD 3, because the open ditch is there, the cost per acre is less. All tile systems have a higher cost for the improvement. Systems that have an open ditch are maintaining the ditch for 100 years. This system is all tile. A tile system is a one-time deal and you use it until it is done. The tile systems end up to be higher cost, but this is the average as to what we have seen. Linda Jerlow stated that it just seems like it is high enough that it would not be cost effective.

Dan Hodnefield asked if the Interest rate was an annual percentage rate. Kevin Nordquist responded that it is annual. Ron Ringquist stated that it is an estimated number. The viewers try not to underestimate either the costs, the value, or the financing. Hopefully it will be less than that when the actual bond sales take place. Dan Hodnefield asked if the principal could be paid off at any time down the road. Kevin Nordquist replied that it can be pre-paid in full or partial payments. The payments would be re-amortized when partial payments are made. Dan Hodnefield asked that if prepayment is done, there would not

be interest payments. Kevin Nordquist stated that if you want to pay a portion of it, and five years from now you want to pay more, we would re-amortize after payment. There are a lot of options.

Chris Bauer said that the next item is taking action or making a decision. Prior to that, is this the last chance you are going to have to take branches on or off? Bruce Leinen responded yes. Chris Bauer stated that if you don't have neighboring landowners here, then you are going to put them in a bad position. Bruce Leinen stated that we were hoping that it was covered previously at information meetings or with all the other contacts that were mailed.

Bruce Leinen asked if there were any other questions or comments that we haven't covered. Gary Bailey said that on your payment schedule, you said you could pay off part now or five years down you could pay it? You don't actually put that on a payment schedule? If this all goes through, when would it happen? Kevin Nordquist stated that with Chuck's timeline, it would probably be 2020. Chuck Brandel said maybe 2019 depending on who gets the bid. Gary Bailey asked how that would happen.

Chuck Brandel stated that once the project is constructed we make the contractor televise it before it is accepted. The system usually sits through a growing season or winter before that is done. That extends the time before it is finally accepted. We are working on ways to speed that up. We want to make sure it is constructed right before it is accepted. He has to sign off ensuring that it is done right. If we televise it and find an issue, we wait until the crops are off to fix it. Late 2019 or 2020 at the earliest.

Gary Bailey said that he spoke with Chuck Brandel about Section 34 on the phone. Will there be an intake on the fence line between his property and Svobodas? Chuck Brandel replied that there would be. Gary Bailey asked if there would be a berm or structure. Chuck Brandel replied that they would place the intake slightly lower than ground elevation so it takes water. We are not going to build up a berm. If the project goes in as dual wall, it will be an 18" dual wall pipe coming up. No matter what the size is we have a minimum 18" inlet coming out. The reason for that is that you cannot get a camera to take a corner. We have been working with the DNR and others, so that instead of cutting it off at the ground elevation, we will cut it off at eight inches above. We will put slits and rock around the inlet. So that way, water comes in, it can soak and get down. Sediment stays out as much as possible. When you get a big rain, water will come over the top, get in the inlet, and get out of there without flooding your field. This is what it will look like. (He showed a picture on the projector screen.) It will have one of those chicken wire yellow grates with an anti-vortex plate in it.

Larry Miller asked if he understood correctly that no contractor was to receive money until the system is working. Chuck Brandel replied that the contractor gets paid progress payments as they go. They do not get a final payment until we are sure that it works. We keep five percent of everything they do all the way to the end. They have to televise it and make sure it is working. They have to finish all things on the list of items to clean up. They

must provide an affidavit that states they have paid all their subcontractors. The state statute has a three-year warranty for tile. And we make the contractor get a performance and payment bond. If we accept it and a tile connection blows out, we have the ability to make them go back and fix it within the three-year time period. This is a publicly bid project, a large project. We want to make sure we have all those things in place. If the contractor goes out of business, the bonding company will pay the costs to finish.

Bruce Leinen asked if there were any other questions or comments. Chris Bauer said that he thought they had some lines that could be taken off, since this is our last chance. They would like to remove Branch L1. Chuck Brandel said that has an improvement cost of \$14,500. That can be done.

Chris Bauer asked about removing Branch L2, which is a 10" tile. Chuck Brandel stated that one potential issue with that is that there are six crossings of County Road 14. We are trying to consolidate them so there are fewer crossings. That is why we were extending L2. There are four crossings there and we are trying to get by with just one. Dave Bauer said they would leave this branch.

Chris Bauer asked about removing Branch C4. It is in the northwest quarter and what is there seems to be adequate. Chuck Brandel replied that the line affects more than just your property. That is the intake that Mr. Bailey discussed. Gary Bailey stated that you can leave it on my property. Chuck Brandel said that if they wanted to take off the end of C4 it would save a couple thousand dollars at most.

Chuck Brandel said it is the board's discretion if they want us to do that. Those are not significant changes, about \$16,000. Bruce Leinen said that it will bring the costs down. He asked if it would change the benefits.

Ron Ringquist said that looking at those minor adjustments, it would only affect the improvement by about one percent. He thought to continue the hearing would cost more than the cost savings. But if the board decides that we should re-look at that, we will. From what he sees, it is not a measurable change.

Wayne Rasche asked that saving that little bit there, will that save those property owners much money when you figure all the benefits. Ron Ringquist stated that one of his concerns is that if you don't replace it today and it fails, even though it is undersized, you have the cost of replacing it somewhere in the near future. It is a current public tile. If you don't put new in, then you are going to have overlapping assessments in the future for maintenance. I think it is better to just upgrade the system so that it is all new than to save a couple thousand dollars now and end up spending five thousand in a few years to have Dave go out and replace it. One of the things that I personally like when you do a system like this, if you replace the whole system, you shouldn't have maintenance costs within the payment period and beyond. When you do only a partial system and all of the tile remaining is 100 years old, is it going to last five years, 10 years, two years? Then you end up with overlapping assessments and higher costs on those maintenance portions later.

It is up to you. It would save short-term a few dollars. Or it could cost you more before the payments are done on the system.

Chris Bauer stated that the point was taken and that those comments made sense. There was discussion amongst the Bauers. Bruce Leinen asked if it was his understanding that they would leave all of the branches. Dave Bauer said that they would leave them all in.

Bruce Leinen asked if there were any other comments or questions. Hearing none, he made a motion to close discussion. Jim Buschena seconded this. Motion carried unanimously.

9. Action by the Board

Bruce Leinen moved 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. Harvey Kruger seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the reports made or amended are complete and correct. Jim Buschena seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the damages and benefits have been properly determined. Wayne Rasche seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the estimated benefits are greater than the total estimated cost, including damages. Harvey Kruger seconded this. Motion carried unanimously.

Bruce Leinen moved 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. Jim Buschena seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the proposed drainage project is practicable. Wayne Rasche seconded this. Motion carried unanimously.

Based upon the findings, Bruce Leinen moved that 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. Harvey Kruger seconded this. Motion carried unanimously.

Bruce Leinen moved 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. Jim Buschena seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that only a separable portion of the existing drainage system will be improved and that this portion also needs repair. Wayne Rasche seconded this. Motion carried unanimously.

Bruce Leinen moved that based on the evidence, the board determine and assess, by order, that the amount of \$2,798,655.00 be allocated as repairs and assessed against all property benefited by the entire drainage system, and that the balance of the cost of the improvement be assessed in addition to the repair assessment against the property benefited by the improvement. Harvey Kruger seconded this. Motion carried unanimously.

Bruce Leinen moved 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.

Bruce Leinen moved that the hearing be adjourned at 10:45 a.m. Wayne Rasche seconded this. Motion carried unanimously.

Harvey Kruger

Secretary