

PROCEEDINGS OF THE
MARTIN COUNTY BOARD OF COMMISSIONERS
TUESDAY, SEPTEMBER 4, 2012
@ 9:00 A.M.

The regular meeting of the Martin County Board of Commissioners was called to order at 9:00 a.m. by Chairman Steve Donnelly.

Commissioners present were Schmidtke, Potter, Belgard, and Pierce. Also present were Scott Higgins, Martin County Coordinator, James Forshee, Martin County Auditor/Treasurer, Kevin Peyman, Martin County Highway Engineer, Jennifer Brookens, Sentinel Newspaper, Rod Halvorsen, KSUM/KFMC Radio, Julie Walters, Administrative Assistant, and members of staff and public.

Motion by Commissioner Belgard, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda as presented. Carried unanimously.

Motion by Commissioner Potter, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve the minutes of the August 21, 2012 regular Board of Commissioners meeting. Carried unanimously.

Kendra Van Beusekom was present to introduce herself and to announce that she has been hired as Martin County's 4-H Program Coordinator effective September 4, 2012.

Higgins presented a Conditional Use Permit (CUP) request from Tim Steuber for expansion of current hog operation on an existing building site located in an "A" Agricultural District. The Planning Commission approved the CUP request during their August 28, 2012 meeting and is recommending approval of the Conditional Use Permit.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke,

R-#41/'12

CONDITIONAL USE PERMIT
TIM STEUBER
CONSTRUCTING AND OPERATING A FEEDLOT SITE
IN AN "A" AGRICULTURAL DISTRICT
WITHIN SECTION 24 OF FRASER TOWNSHIP

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke,

WHEREAS, a Conditional Use Permit was requested by Tim Steuber, applicant/owner of property located within Section 24 of Fraser Township in Martin County, Minnesota (legally described in applications) for the purpose of expanding current hog operation over 1,000 animal units on an existing building site located in an "A" Agricultural District; and

WHEREAS, the Martin County Planning and Zoning staff has completed a review of the application and made a report pertaining to the request, a copy of said report has been presented to the County Board of Commissioners; and

WHEREAS, the Planning Commission of the County on the 28th day of May 2012 following proper notice, held a public hearing regarding the request and, following the hearing, adopted a recommendation that the request for a Conditional Use Permit be granted; and

WHEREAS, the Martin County Board of Commissioners finds that Conditional Use Permit is to be issued for the following purpose:

Constructing and operating a feedlot site over 1,000 animal units, and

WHEREAS, the following conditions have been applied:

- Any additional permits required by the State of Minnesota must be obtained by the applicant.
- Building permit(s) be obtained.
- Applicant must construct according to plan, which was submitted.

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners, and upon the recommendation of the Martin County Planning Commission, hereby approves the Conditional Use Permit for the above described property and is hereby issued pursuant to MS 394.301 and Martin County Ordinance #1, Chapter 6.01 and that this permit shall remain in full force and effect provided in the conditions as described above are met and maintained by the applicant and his/or her successors in interest. This permit is binding upon the applicant, the record titleholder to the property, and his/her successors in interest. Notice is hereby given that this permit may be revoked if the conditions set forth above are not maintained as described above. This resolution shall become effective immediately upon its passage and without publication.

Dated this 4th day of September, 2012.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Potter, Belgard, Schmidtke, Pierce, and Donnelly. NAYS: None. Resolution duly passed and adopted this 4th day of September, 2012.

Kevin Peyman, Martin County Highway Engineer, presented labor hours from the Conservation Corps Minnesota for the Perch Lake Park Improvement Project which included: Shelter house maintenance and painting; Stain/seal split rail fence; Install water bars on one or two narrow walking paths down the steep bank to the lake; and trim trees along trails and remove Buckthorn. Peyman recommended acceptance of the labor hours and stated there is no County match required and will be paid for by the Lewis Family Trust.

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, hereby accept the Conservation Corps Minnesota labor hours for the Perch Lake Park Improvement Project to be paid for by the Lewis Family Trust with no County match required. Carried unanimously.

Peyman reported on the final contract for Rolling Green Township culvert bridge replacement with Pugh Brothers Excavating, Inc. of Randall, MN. Peyman stated final examination has been made, contract has been completed, and the entire amount of work has been performed. The original contract was \$100,439.50 and the completed certified amount is \$102,064.57. Peyman recommended approval of the final payment of the contract.

Motion by Commissioner Schmidtke, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, upon the recommendations of Kevin Peyman, County Highway Engineer, hereby approves the final contract payment for S.A.P. 46-599-074 Rolling Green Township culvert bridge replacement with Pugh Brothers Excavating, Inc. of Randall, MN in the amount of \$102,064.57. Carried unanimously.

Peyman updated the Board noting that work on 100th Street (Tree Dump Road) will begin next week; the west two miles of CSAH 38 are complete and will be starting on the other two mile stretch; will be getting ready to concrete CSAH 39 by the beginning of next week; and reviewed the CY2013 Road & Bridge and Park Preliminary Budget Request.

Commissioner Belgard stated Ken Ringeisen has expressed interest in serving on the Martin County Parks/Trail Committee and has agreed to become an At Large representative.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby appoint Ken Ringeisen to serve as At-Large Representative on the Martin County Parks/Trail Committee effective September 4, 2012 through December 31, 2012. Carried unanimously.

Jeff Markquart, Martin County Sheriff, stated step increases have been recommended based on satisfactory performance evaluation and according to Union Contract(s) for the following individuals: JoAnn Russenberger, Communications Officer with the Martin County Sheriff's Office; and Christopher Vasvick, Deputy Sheriff with the Martin County Sheriff's Office

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, upon the recommendation of Jeff Markquart, Martin County Sheriff, hereby approve and authorize step increases based on satisfactory performance evaluation and according to Union Contract(s) for the following Martin County Sheriff's Office

personnel: JoAnn Russenberger, Communications Officer, change in PTO accrual effective September 10, 2012; and Christopher Vasvick, Deputy Sheriff from \$22.72/hour to 3 Year Step at \$23.35/hour effective September 11, 2012. Carried unanimously.

Markquart presented the bills for the Motorola radios compatible with the new ARMER 800 MHz system. Markquart further stated that the bills were due in July, 2012.

Markquart informed the board that there are 22 in jail and an additional 16 that are housed out of county.

Chairman Donnelly inquired how many on EHM.

Markquart responded that he did not have the number this morning, but it is usually around 10-12 people.

Rebecca Bentele, Victim Witness Coordinator, presented the FY2013 Crime Victim Services Grant Agreement and resolution with the Office of Justice Programs. Federal funds for this grant contract are provided under the Ongoing Crime Victim Services for the purpose of providing supplemental funding to aid in the provision of direct services to victims of crime. State funds for this grant contract are provided for the purpose of providing crime victim services to victims of domestic violence, general crime services, and sexual assault services. Bentele stated the grant came in at \$75,000 this year which is less than we've had in the past. The grant this year was a competitive grant instead of a continuation grant, and so all of the grantees in the State were writing their grants as though they were competing against everyone which we were. Now that we've been funded, it does reflect a reduction of approximately 10% less from what we've had in the past. That amount that we received this year now starting October 2012 will be the same amount that we receive now every year for the next five years and after five years we will be up again at a competitive level. In the next five years the grant is subject to change, in fact even subject to discontinuance which is what happened with a number of programs around the State.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke,

R-#39/'12

RESOLUTION

AUTHORIZING EXECUTION OF AGREEMENT

BE IT RESOLVED, that Martin County, Victim Services, will enter into a cooperative agreement with the Office of Justice Programs in the Minnesota Department of Public Safety; and

BE IT FURTHER RESOLVED that Federal Funds for this grant contract are provided under the Victims of Crime Act (VOCA) for the purpose of providing supplemental funding to aid in the provision of direct services to victims of crime. State funds for this grant contract are provided

for the purpose of providing crime victim services to victims of child abuse, domestic violence, sexual assault, and other crimes; and

BE IT FURTHER RESOLVED, that the State is in need of services to victims of crime; and

BE IT FURTHER RESOLVED, that Scott Higgins, County Coordinator, is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of Martin County.

BE IT FINALLY RESOLVED, upon a motion by Commissioner Belgard, and seconded by Commissioner Schmidtke, and unanimously carried.

Said Resolution was adopted this 4th day of September, 2012.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Potter, Pierce, Schmidtke, Belgard, and Donnelly. NAYS: None. Resolution duly passed and adopted this 4th day of September, 2012.

James Forshee, Martin County Auditor/Treasurer, presented a resolution requesting approval from the Minnesota Department of Natural Resources for the sale of said parcels of land that have been forfeited to the State of Minnesota for non-payment of property taxes.

Commissioner noted discussion of having Sentencing to Service trim trees on the Sherburn property before the sale.

Motion by Commissioner Pierce, seconded by Commissioner Potter,

MARTIN COUNTY BOARD RESOLUTION # 38 / 12

WHEREAS, The County Board of Commissioners of the County of Martin, State of Minnesota, desires to offer for sale certain parcels of land that have forfeited to the State of Minnesota for non-payment of taxes, and

WHEREAS, Said parcels of land have been viewed by the County Board of Commissioners and have been classified as non-conservation lands as provided for in Minnesota Statutes 282.01.

NOW, THEREFORE, BE IT RESOLVED That the Martin County Board of Commissioners hereby certify that all parcels of land on the attached list have been viewed and comply with the provisions of Minnesota Statutes 85.012, 92.461, 282.01, Subd. 8, and 282.018, and other statutes that require the withholding of tax-forfeited lands from sale.

BE IT FURTHER RESOLVED That the Martin County Board of Commissioners hereby request approval from the Minnesota Department of Natural Resources for the sale of said lands.

MOTION WAS MADE by Commissioner Pierce, seconded by Commissioner Potter, and carried to adopt said resolution.

Dated the 4th Day of September, 2012

BOARD OF COMMISSIONERS
MARTIN COUNTY, MINNESOTA

Steve Donnelly, Chairperson

ATTEST: _____
Scott Higgins
Martin County Coordinator

Roll Call AYES: Commissioners Belgard, Schmidtke, Potter, Pierce, and Donnelly. NAYS: None. Resolution duly passed and adopted this 4th day of September, 2012.

Forshee presented an Application for Abatement received from Peter and Cindy Milne for Parcel No. 02.029.1050 for taxes levied in 2011 and payable in 2012. Applicant's request is to grant property tax abatement due to fire damage. Estimated tax abatement is \$170 for total payable of \$470. Forshee noted the Assessor's Office Staff recommends approval of this abatement request.

Motion by Commissioner Pierce, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Property Tax Abatement from Peter and Cindy Milne for Parcel No. 02.029.1050 for reduction of tax in the amount of \$170. Carried unanimously.

Forshee stated the Blizzard Snowmobile Club has been awarded \$40,551.60 from the Department of Natural Resources for the maintenance of Prairieland snowmobile trail and asked for board approval.

Motion by Commissioner Pierce, seconded by Commissioner Belgard,

R-#40/'12

RESOLUTION AUTHORIZING
FY2013 SNOWMOBILE MAINTENANCE GRANT AGREEMENT

FOR PRAIRIELAND TRAIL

WHEREAS, this agreement is made between the State of Minnesota and Martin County as it relates to the establishment of the Prairieland Trail, and

WHEREAS, Martin County desires to establish, construct, and maintain public trails; and

WHEREAS, the Minnesota Trails Assistance Program provides grants to local units of government for the construction and maintenance of recreational trails pursuant to the Minnesota Statutes, Chapter 84.83; and

WHEREAS, the Blizzard Snowmobile Club on behalf of Martin County, has submitted the application and resolution by the local government authorizing the proposed trails; and

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners approve and authorize the Board Chair and/or Auditor/Treasurer to sign the Minnesota Trail Assistance Program FY2013 Grant Agreement in the amount of \$40,551.60 with an effective date of September 1, 2012 and expiration date of June 30, 2013.

Motion by Commissioner Belgard, seconded by Commissioner Pierce, and was duly passed and adopted this 4th day of September, 2012.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Potter, Schmidtke, Belgard, Pierce, and Donnelly. NAYS: None. Resolution duly passed and adopted this 4th day of September, 2012.

Higgins stated the AMC Annual Conference will occur at the same time we have the December 4, 2012 regular Board meeting. Additionally, the Truth in Taxation meeting is scheduled for Thursday, December 6, 2012 at 6:00 p.m. Higgins recommended changing the regular scheduled meeting date of December 4, 2012 to Thursday, December 6, 2012 at 4:30 p.m.

Motion by Commissioner Pierce, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve changing the date of the regular meeting scheduled for Tuesday, December 4, 2012 to Thursday, December 6, 2012 at 4:30 p.m.; and to establish the Truth in Taxation public hearing to be held on December 6, 2012 at 6:00 p.m. in the Board Room at the Martin County Courthouse, at 201 Lake Avenue, Fairmont, MN. Carried unanimously.

The Board recessed at 9:51 a.m.

The Board reconvened at 10:00 a.m.

Chairman Donnelly welcomed those present to the public hearing on Engineer's final reports and determination of benefits for a proposed improvement of JD #40. Those present were Commissioners Potter, Schmidtke, Donnelly, Pierce, and Belgard. Also present were Kurt Deter, Attorney with Rinke Noonan of St. Cloud, MN, Chuck Brandel, Project Engineer with I&S Engineers, James Forshee, Auditor/Treasurer, Scott Higgins, County Coordinator, Deb Mosloski, Martin County Drainage Specialist, Mike Forstner, Ditch Inspector, Ron Ringquist, Viewer, Chuck Bowers, Viewer, Mike Findley, Landowner in the northwest part of the watershed, Chuck Frundt, Frundt & Johnson in Blue Earth, MN attorney for the petitioners, Rich Perrine, Water Planner and Martin Soil and Water Conservation District Staff, Mark Craven, Landowner, Ralph Messer, Landowner, Kyle Sammons, I&S Engineers, Robert Kesselring, Sr., Landowner and representing Floyd Kesselring Trust, Scott Robertson, Farm Operator representing David Finney, Carol Teubner, Jim Teubner, Landowner, Richard Mair representing the Mair Trust, Tom Maday, Landowner, Craig Diegnau, Landowner, Chad Diegnau, Landowner, Chuck Dressen, representing Ron Bahr, Sandra Dressen, representing Ron Bahr.

Deter reviewed the need for the public hearing stating that under the statute 103E landowners can petition for an improvement and in this particular case there was a petition for the improvement of JD #40. That petition had the required number of signatures and a bond was posted. At that point the Board acting as the Drainage Authority for Martin County appoints an engineer to do the engineer's report. Some of you or all of you may have been at the preliminary hearing. At that hearing they reviewed the engineer's report and they go through four findings that the statute requires to go to the next step. The Board at that point made those four findings at that point they tell the engineer to do a final engineer's report and they appoint the three viewers to go out and determine benefits and damages. That then results in those two reports being filed which then causes what's called the final hearing which is today. As you look at the agenda you'll see that the final hearing requires that the engineer give their final report and that you be allowed to ask questions on that. It allows for a Department of Natural Resources (DNR) advisory report which was filed which I'll likely read into the record. It allows then for you to ask questions and the viewers to give their report and again for you to ask questions or comments on that report. Today is basically the opportunity for the landowners to address the Drainage Authority on the issues of the engineer's report and the viewer's report. Then you'll see under Item No. 9 under the agenda the statute is laid out very systematically and the three options the Board will have today, the Board may decide they need more information or need to continue the hearing to get more information and they have the authority to do that. The Board could approve the project if they make the six findings needed for approval of improvement including:

1. The Final Engineer's Report & Viewers' Reports have been made and other proceedings have been completed under Minnesota Statutes 103E.
2. The Reports made or amended are complete and correct.
3. The damages and benefits have been properly determined.
4. The estimated benefits are greater than the total estimated costs, including damages.
5. The proposed drainage project will be of public utility and benefit and will promote the public health.
6. The proposed drainage project is practicable.

Deter continued stating that the Board then has the authority if they make those six findings to approve the project. If they decide that those items have not been met or one of the items or however many have been met, they have the ability to either not approve the project or send it back for further review depending on what issues come up today. And then, depending on what happens today, there is also a redetermination of benefits ordered which all of you have. This is where the Viewers go out and re-determine the whole system, but again a lot will depend on what happens on this first hearing. Are there any questions on procedure? If not we'll start going through the agenda and make sure that we cover everything that the statute requires.

James Forshee, Martin County Auditor/Treasurer, stated that Notices of this public hearing were mailed and published in the County's official newspaper the required three times and is on file in the County's Drainage Administration Office.

Chuck Brandel, Project Engineer with I&S Engineer's, reviewed the location and watershed, history, existing conditions, nature of the project, practicality and feasibility of the project, and the three improvement options.

Brandel stated JD #40 is located in Sections 3, 10, 11, 13, and 14 of Center Creek Township. The 1,211 acre JD #40 Watershed primarily consists of gently rolling agricultural terrain. The watershed includes land from all or portions of Sections 3, 10, 11, 12, 13, and 14 Center Creek Township. The watershed generally drains to the southeast and currently discharges to Center Creek via a 16 inch Corrugated Metal Pipe in the southeastern corner of Section 13. Elevations within the watershed range from approximately 1,070 to 1,120 feet Mean Sea Level (MSL).

Brandel went on to state JD #40 was first established as an entirely buried tile drainage system in 1914, and as of 2012 there are no documented improvements to the JD #40 system. The existing system consists of approximately 14,000 feet of main line tile ranging from 16 inch in diameter tile at the Center Creek outlet to 12 inch in diameter tile at the upper end of the main, with grades ranging from 0.10% to 0.60%. Included in the JD #40 system is 14 lateral tile branches consisting of 6 inch, 7 inch, and 8 inch diameter tile. The lateral tiles have existing grades ranging from 0.10% to 1.00%, with some grades up to 2.80% in steeper areas.

Brandel noted the capacity of agricultural tile is expressed as a drainage coefficient, D, in inches per day (in/day), and is defined as the depth of water over the entire area of the upstream watershed that a tile can drain in a 24 hour period. For a system like JD #40, the Natural Resources Conservation Service (NRCS) recommends a drainage coefficient of 0.50 to 0.75 in/day. Brandel went on to note the existing JD #40 system main line consists of tile sizes ranging in size from 16 inch at the outlet to 12 inch on the upper end of the system. The current drainage coefficient is 0.10 in/day at the outlet and ranges from 0.05 to 0.13 in/day throughout the system on the main line. This is drastically undersized for today's standards and production practices. The existing Branch B consists of 7 inch and 8 inch diameter tile and drainage coefficients of under 0.05 in/day.

Brandel stated the nature of the project is to provide increased capacity to the system, it is proposed to improve JD #40 starting from the outlet at Center Creek, installing approximately 13,945 feet of buried main line tile and approximately 2,630 feet of buried Branch B tile, and

ending approximately 800 feet west of County Road 159. Brandel went on to state the general course of the proposed improvement of JD #40.

Brandel stated when a separable portion of a larger system is in need of repair, the drainage statute 103E allows the separation of the cost of repair from the cost of improvement of the project. Separable maintenance can be applied to the segments of existing tile that will be replaced by the proposed improvement. Costs are summarized in the following tables:

Table 1: Option 1

| | Proposed Improvement | Separable Maintenance | Net Cost |
|-----------|----------------------|----------------------------|------------|
| Main Line | \$ 953,256 | \$ 482,790 | \$ 470,466 |
| Branch B | \$ 107,282 | \$ 83,850 | \$ 23,432 |
| Subtotal | \$1,060,538 | \$ 566,640 | \$ 493,898 |
| | | Benefits per Ditch Viewers | \$ 521,358 |
| | | Benefits minus Cost | \$ 27,460 |

Brandel stated for Improvement Option 1 it is estimated the repair of the existing main line tile would be approximately \$482,790. The drainage authority may determine to assess the entire JD #40 system for this separable maintenance portion of these costs. The remaining \$470,466 main line improvement cost will be assessed to the landowners that are thereby benefitted as determined by the ditch viewers. The estimated repair cost of the subject portion of Branch B is \$83,850. The remaining \$23,432 branch improvement cost will be assessed to the landowners that are thereby benefitted as determined by the ditch viewers.

Brandel went on to state after factoring in separable maintenance; the proposed improvement will cost approximately \$493,898. Per the ditch viewer's report, the benefits from this proposed project will be \$521,358. The benefits of the proposed improvement outweigh the costs by \$27,460.

Table 2: Option 2

| | Proposed Improvement | Separable Maintenance | Net Cost |
|-----------|----------------------|----------------------------|------------|
| Main Line | \$ 953,256 | \$ 482,790 | \$ 470,466 |
| Branches | \$ 363,226 | \$ 323,615 | \$ 39,611 |
| Subtotal | \$1,316,482 | \$ 806,405 | \$ 510,077 |
| | | Benefits per Ditch Viewers | \$ 529,550 |
| | | Benefits minus Cost | \$ 19,473 |

Brandel stated for Improvement Option 2 it is estimated the repair to the main line remains at \$482,790 assessed to the watershed, with an improvement cost of \$470,466 assessed to the landowners benefitted. Repairing some of the branches is estimated at \$323,615 with an improvement cost of \$39,611 being assessed to the landowners benefitting from these improvements.

Brandel went on to state after factoring separable maintenance, the proposed improvement will cost approximately \$510,077 and the benefits for this option will be \$529,550. The benefits of Option 2 outweigh the costs by \$19,473.

Table 3: Option 3

| | Proposed Improvement | Separable Maintenance | Net Cost |
|-----------|----------------------|----------------------------|-------------|
| Main Line | \$ 953,256 | \$ - | \$ 953,256 |
| Branches | \$ 526,251 | \$ - | \$ 526,251 |
| Subtotal | \$1,479,507 | \$ - | \$1,479,507 |
| | | Benefits per Ditch Viewers | \$1,932,505 |
| | | Benefits minus Cost | \$ 452,998 |

Brandel stated for Improvement Option 3, the estimated cost of the main line improvements is \$953,256 and the cost to improve each of the lateral branch tiles \$526,251. The total improvement cost of the Replacement Option 3 is estimated to be \$1,479,507.

Brandel went on to state Improvement Option 3 is a replacement of the entire JD #40 system and therefore separable maintenance is no longer applicable. Instead, with an entire system replacement, the total net benefit of the entire watershed is used and the entire watershed is assessed for the replacement. Per the ditch viewers' report, the benefits from this proposed project will be \$1,932,505. With Option 3, the total net benefits for the watershed outweigh the improvement cost by \$452,998.

Brandel continued the existing JD #40 and proposed improvements were modeled using HydroCAD software. For each scenario, a model was developed for the 5-, 10-, 25-, and 50 year rainfall events. A quantitative summary of the hydrologic and hydraulic analyses is available. As discussed, the proposed tile segments were sized to provide a drainage coefficient of 0.50 in/day for the upstream watershed.

Brandel noted HydroCAD was also used to measure the effect the improvements would have on the next downstream crossing. For the 74 square mile Center Creek watershed, the discharge beneath the downstream crossing would be approximately 1,300 cubic feet per second (cfs). The effect of the 48 cfs increase in flow from the JD #40 improvements would cause an increase depth of less than 1.5 inches for a 50 year rainfall event.

Brandel went on to note the improvements to the JD #40 system will result in increased flows downstream. The peak flow at the outlet will increase for each of the events, due to the increase in pipe capacity. Although a storage pond would benefit the JD #40 system in decreasing peak flows, there is not a realistic and cost effective option for placement of a holding pond. There are low areas in the system but due to the flat terrain throughout there is no feasible or cost effective way to store water drained from the tile without affecting a majority of the watershed.

Brandel concluded the improvement proposed in the petition to JD #40 is to replace and upgrade the size of the existing main line tile and a portion of Branch B, improving drainage for the entire watershed. As described in the Practicality and Feasibility section of this report the cost versus benefit is the greatest when replacing the entire system. No significant land use or environmental impacts are foreseen. The project, as proposed, is practical and feasible, and its necessity has been described. Any improvement option for the JD #40 project will be a public benefit and contribute to the public welfare of this area and, therefore, the project should be constructed as described. Storage options were considered but due to existing elevation restraints were found to be unfeasible in this system.

Brandel stated it is recommended that the Ditch Authority call the Final Hearing for this project and submit this report to regulatory agencies for input related to, among others, environmental concerns. The original petition called for a project as developed in Option 1. This option is feasible and the benefits outweigh the costs. Option 3 does provide more benefit and we feel that the system should give strong consideration for this option as it replaces the entire old public tile within the system provided the most benefit to all landowners within the watershed. If this project is received favorably at the Final Hearing, then detailed plans should be prepared, the project let for bid, and the project be constructed.

Deter stated before we go into the public comment I'll read the DNR Advisory Report just so that people will know what the DNR comments are on this project. The statute allows the DNR to submit what is called an Advisory Report. It is their comments; it doesn't mean they have veto authority, although in this case their position is that a permit is required. The letter is directed to Deb Mosloski and is from Leo Getsfried the Area Hydrologist: Deter read the letter from DNR to be included in the record.

Brandel commented I talked to a few of the petitioners and in lieu of grass intakes some have requested a buried rock intake which would do the same thing it would act like a filter so that might be something if the project is approved we'd look at those in the field areas and the other intakes we'd put near property lines and would be grass. And the intakes are there (1) to drain low areas; (2) for inspection; and we propose with all of our projects be televised the pipes within two years of having been put in.

With no further staff report, Chairman Donnelly opened the public hearing on the Engineer's Final Reports and Determination of Benefits for a Proposed Improvement of JD #40.

Robert Kesselring, Sr. stated there are two names on this list that are not here and I wonder if their representative is here. Ward Johnson and Marcella Peppard. She's in a nursing home I know and I think Ward is too. Are they represented? And is all the people represented here? You're proposing something to go through without everybody's representation here. Stating that the proposed improvement does me no good. Now there might be other people in here that don't want it either and they should be able to say we don't want it and the ones that proposed this let them pay for it they're getting all the benefit and they're dragging the rest of us in to help pay for it. I've been there a long time probably longer than any of you here and there's dry years and flood years, this thing is going to create a lot of problems for Center Creek and I cross that bridge every day and I've seen that bridge up level already and then we get the dry period. I don't think we need it. I think it's better to patch it up or else propose it to go north there's a creek up there and another thing there's a ditch up there by Bahr's somewhere in the middle why don't they run the water there? And these people should be represented. Everybody on here should be represented before you pass it. You've already made your minds up you're going to pass it you can see that and let the opposition talk now if there's anybody else feels like me let them talk now. I think it's too costly and they're raising our taxes every year anyway and now you're going to add this thing to us and I don't need it and there's other people don't need it. The ones that instigated this and I happen to think I know who they are let them pay for it they're getting all of the benefits. Thank you.

Chairman Donnelly: Just to set the record straight we haven't made up our mind on anything.

Deter stated that everybody is sent notice and he may be correct some people may or may not come to this meeting but it is my understanding from Deb that everybody was sent notice whether they send a representative or not is their decision.

Kesselring: Can it be passed if they don't answer these people? The Peppards are being assessed quite a bit. I'm right by that land I know that land I've known that land since 1949. They're unrepresented and I don't think Ward Johnson is represented because he's in a nursing home too. I don't know any of the others. But can you pass it if they're not represented? Everybody should be represented before you throw those taxes on us. It's easy for people to sit and propose it but we're the ones paying for this thing. There are more people in this room not paying taxes out there on that land than there is. And you've got the power proposing it.

Curt Diegnau stated I'm a landowner in Center Creek Township down there on the 13 and my brother is adjacent on the railroad tracks there and we're being asked to be assessed about \$195,000 on land that we don't need it. I'm just going to echo what Bob said. I'm a local businessman in Fairmont I know how business runs I know how the public system runs, I know how our streets run and everything else there. These landowners up there I do feel for them but a lot of that land has been that way since I've been a toddler and I'm 42 years old and we didn't buy land in that area because it was wet. We bought land that didn't need tile and had good flow to it and these types of things already. It's called good business. And \$193,000 or \$195,000 or whatever it is on 220 acres is almost \$1,000 an acre you're asking us to be assessed. Which is unrealistic. The people that want it...send it north...do something else with it. I don't know; but we don't want it and it is way too much money. If they want to come back with something that makes it reasonable for the people that are not receiving any benefit of it we'd be willing to go along with it. We're very interested in improving the public safety as it says here on the agenda you know we're all for that. But \$200,000 is too much money to be asked to do that. And a 5 1/2" rainfall is only going to raise Center Creek 1" is that on the old system or new system now?

Brandel stated that's comparing the old system to the new system.

Curt Diegnau: Because I've lived in that area a lot of my years and farmed in that area with my dad and my brother and I've seen Center Creek after a 5 1/2" rainfall and it is quite a ways up. And I'd be very concerned about the landowners downstream heading towards the Winnebago area with a 36" main dumping into Center Creek which is I've personally been in several times in my life which is no more than maybe six feet deep and maybe 25 feet wide. It's not a big creek, it's full of trees and debris in there and stuff like that and we're now going to put a 36" main tile on it that's going to drain 1,200 acres of land. This is totally not how America functions and I'm totally against it.

Mark Craven stated that I'm going to kind of echo the same thing here. This is not going to benefit me at all and I'm also going to represent my cousin Ron Craven. He has 40 acres and he's getting assessed the whole 40 acres at over \$1,000 an acre and he's against this also. There's no benefit whatsoever. I was in favor when I went to the other meetings but if we could get this thing repaired in some way but I was never in favor of replacing it.

Craig Diegnau: And is this setting precedence for the rest of all or our county mains that are all completely 100 years old and shot? Are we going to be going out there and going through all these systems now? They're all junk and everybody knows it. So what's the next can of worms?

Belgard stated I think the difference with this one is because commodity prices are high right now and the tile system is over 100 years old they're looking at doing a lot of improvements but I think what differentiates this one a little bit is that it went from a 16 to a 36 it got to be about \$1200 an acre and because of that. Would that be not right Chuck? Why this one is just so expensive because of that?

Brandel responded that a lot of systems the differential in cost is smaller from what a repair would be versus an improvement. This is so undersized and if you're going from if you were going to replace the 16" pipe you'd go with an 18 that 18" pipe is going to cost \$20 to \$22 per foot. A 36" costs \$60 a foot it triples the cost.

Craig Diegnau stated that our commodity prices are pretty vulnerable right now and our economy is pretty vulnerable right now.

Belgard stated he did not think this is the way we are going. I think this is a little bit different because it is so costly they're not going to all be that costly; but they're all going to be improved.

Craig Diegnau stated we don't really care about the other ones.

Deter stated that to answer the question about setting precedence yes around the state, systems are being improved; but they aren't instigated by the Drainage Authority. They have no ability to initiate an improvement.

Craig Diegnau stated we understand that. I'm very clear about that. But, it is going to set precedence out in the community.

Deter responded absolutely. There's no question that systems are looked at all over the state.

Ralph Messer: I'm a landowner and I'd like to put my three cents in. I'm a landowner in Section 14 and I'm high and dry. This does me absolutely no good. I need irrigation more than I need, right along County Road 184.

Brandel responded that this is based on land that drains toward the watershed or is tiled to the watershed.

Rich Perrine: Water Planner, Martin Soil and Water Conservation District. I have a question about precedence setting when you increase an outlet this significantly the lapse of rains in Center Creek with only two sections worth of drainage...without adding storage somewhere. Is there storage proposed to make up for this increase in drainage from this watershed?

Brandel: We looked at every system that we review. We ask if there is there somewhere where we could put water, slow it down, do something with it. This system is so flat that there wasn't a spot where you could do storage. It just didn't work. And I met with Leo Getsfried on that. We are trying to every system where can we do it either by taking out a very poorly farmed lowland or we've also looked at ravines or even in channel storage. This one cost effectively you'd end up you're buying land at \$8,000 - \$10,000 an acre the cost just doesn't work.

Chad Diegnau: talking about storage and not being feasible to put storage in line there. The people downstream will be the storage system for them. If you're downstream you already have flooding. And you talked once every 50 years was it a 5 1/2" rain? Yea, I can recall 5+ inch rains probably 3 or 4 of them in the last 10 years. And I'm kind of bouncing around here but you talk about the redetermination the benefits and stuff like that...the parcel me and my brother own Section 13 we're on both sides of the railroad tracks. Um, correct me if I'm wrong you talk about the tile lying flat...it does not lay flat on our property so a 36" tile is of no benefit to us because we have fall we don't need any more drainage. I understand everybody's issues and concerns further up the system but I don't see how we're going to benefit. We're actually going to lose fall on our parcel and I know it is a bigger tile but we're going to have much more water coming into our parcel so you're actually going to take fall away from us. Put it into a creek system that we farm against, Bob Kesselring farms against, and our landowners that I rent from further on downstream and I challenge an inch of rain when it is in your fields is a big deal.

Brandel: To answer some of that, you do have a restriction at the railroad tracks and but the tile is larger but it is at a flatter grade and that's so we wouldn't have to continue on with the 36" so you could use the grade with a 30" and a 24" to cut the cost down as much as possible. From in looking at the flows you've got overland flow that comes through the system through the culverts. You're going to get more water into the tile and less overland flow by this improvement.

Chad Diegnau: On the engineering report then if this engineering report is correct and accurate how did the people up north all of a sudden get off that list? The Cowings...now that's going to raise my cost more because now there'll be less of us to spread the cost out.

Brandel: There's a tile that runs through here and they're drained to the north.

Perrine: On the main that's going to be deeper in the ground at least at the lower end...is that going to add drainage? Is that perforated or is that non-perforated?

Brandel: Well where it's deeper usually it is non-perforated but the standard has been most of the lines be perforated. Where its 10-12 feet deep it doesn't pay to make them perforated. The upper end where we're close to the same grade it would be perforated. At least that has been the standard in Martin County.

Chad Diegnau: I have one more question. Our property being on the south end towards the outlet you're actually going to go deeper with the tile you're going to go to non-perforated tile in place of I believe you said concrete that's in place which does not take a lot of water. However, we'll be virtually going from a minimal amount to none. So actually our drainage in my mind

will actually decrease because the bigger main means nothing to us when we already have more than ample drainage there. The overland water is created from the people north...I don't know Mark's been around a lot longer than me but I guess I haven't seen when it happens yet but I'm sure it happens in some point in time. But you know what hurricanes happen, tornadoes happen at some point in time. I mean you're dealing with mother nature...the water has to go somewhere.

Name not announced: So now we won't have a perforated tile and the 36 it won't be taking any water at all off of any of our properties.

Brandel: Typically the large mains are not perforated. Now where it is shallow we could have it perforated.

Name not announced: The big question, is there a lot of people in this room that will benefit from this substantially. There's also people in this room that will not benefit and the moral of the story is you know how does that get determined and you can go through the redetermination, we met with them and all that, it's hard for us to get through my thick skull and to understand how we're going to benefit.

Jim Teubner: Mr. Chairman, we're on the north end of that tile, ditch, and there's two outlets right there and Mike might be able to better help me on this. I think there are two outlets there isn't there Mike?

Forstner: answered in the affirmative.

Teubner: When this farm was tiled that was in my dad's era, my dad's gone, I don't know what exactly we had there for tile and maybe Mike do you know? I don't remember that.

Mike: I can't say for sure.

Teubner: I don't think we have a lot of time on that going into that opening because most of our farm does actually go north into Elm Creek. So I look at the return on my investment of my portion of this repair um I'll never live long enough to see a benefit from that. I guess I would like some more time to be able to research and see if I can find out which directions our tiles go on our farm. I'd like to make a suggestion this be at least tabled to a later date so people would have more time to do their own personal research on this project. Thank you Mr. Chairman. I'd also like to go on record saying I'm opposed at this time.

With no further discussion, Chair asked that the Viewers give their report.

Ron Ringquist: My name is Ron Ringquist and I'm the viewer. By profession I'm a certified general appraiser. Prior to going into the appraisal field I was in the engineering and I would have been sitting in Chuck's seat but I'm not a registered engineer so when my father passed away I went into this part of the process. With me is Chuck Bowers and Jim Weidemann was the third viewer. Jim has a similar hearing although not as big in numbers and not as controversial that he had to remain in Redwood today.

A little bit first about the viewing process. The viewing process is a mass appraisal process and our job is to go out and determine the benefits and damages from a project whether that project be currently proposed as an improvement or depending on what happens as we go into the redetermination, the redetermination is determining the benefit and damages of an existing system. I've heard a lot of comments about we already have adequate drainage...that is a redetermination question. I do not agree that everybody gets all of the drainage they should have for today's farming because the system like Chuck said is under designed. It was designed for farming practices in 1910. It does not meet current agricultural demands or capacities. So what we do then is we go out and to start with we must set a basis for comparison. Our basis for comparison then becomes what that land looked like before there was a public system. We try to determine what the viewers in 1910 went out what they physically saw. Was it a cattail slough, was it wetland grass, was it upland areas, did it need drainage. Well currently everybody is paying to repair and take care of this system based on what those viewers in 1910 decided was the benefit of that farming era and the benefits of this system at that time. They decided that this system served their purposes and they assessed benefits according to that capacity, the system's capacity. What has happened since with this system and every other system whether being improved in the 1950's to 1980's or looking at improvements and replacement today is farming has put more and more demand on the systems provide agricultural production land rather than land pasture farming just no longer survives on a few cows out in a summer pasture. Equipment is bigger, input costs are larger, everybody needs to make farming economically feasible and it is not always possible with under designed systems. So we go out and we do an analysis and within what was mailed out to you we look at four general classes of benefits. Benefits are based on the conditions that existed without artificial drainage.

So our first job was to go out and determine the area that was affected (as drawn with the red line on map). The red line was delineated in the field that is the physical barrier of where we felt the water went to the ditch versus going into another ditch or down into another creek. It doesn't mean that it can't artificially be manipulated; but it said that's the water that we felt came through this ditch system based on the original plan. We then went through that area and classified and looked at all acres. They were either A's, B's, C's, D's, or others being non-benefited lands we don't assess conservation measure areas; we don't assess permanent easement areas necessarily. That's a grey area but if upland permanent assessment areas are not assessed and we exclude groves and areas around building sites those types of things from being benefited from a ditch system whether it's improved or the existing. We also then assess roads to road authorities. Because they're responsible for the roads and benefits of the system to the roads. So we go through we determine a value for each of those lands and land classes. What we start with is based on what NRCS guidelines tell us the optimum productive capabilities of the system are. Chuck said that they look at a half inch up to one inch. Within Martin County we typically say the optimum production is based on 1" runoff criteria because an awful lot of Martin County has open ditches and that ditch system should accommodate the runoff of 1" of excess water within 24 hours. It doesn't mean that there aren't still saturated areas but it means pretty much the surface waters are going within those 24 hours.

Based on that we do two analyses to get our values. One is a sales comparison. The problem in today's economy or farm market is sales comparisons are extremely difficult to do. There are no cattail sloughs out there that will be drained and used for agricultural purposes. So we look then

at sales and we say okay what does a market sale give us? It gives us the most the land can be worth. Rule of substitution says if I can buy something cheaper than improving my own land I'm going to go buy something else. So it can't be more than the sale value. But what part of that sale that I use is attributable to the ditch system and to the tiling and drainage. We come up with that part of that overall value attributable to the public system by doing the income approach and that was explained on the 4th page of the benefits and damage statement the cover sheet that was mailed out and that was our economic analysis. We are conservative in looking at our value because we don't want to overvalue what drainage is really worth.

We looked at the 3 options that Chuck (Brandel) had shown or had put in his report and like he said really the improvement through Options 1 and 2 because of that big difference in cost between the 36 and 16 or 18 didn't leave enough dollars so Options 1 and 2 really didn't seem feasible. Option 3 because what we felt was replacing the system in its entirety was a comparison of no system and the system as improved. So when I go through that Option 3 we had listed prior to meeting with all the individual landowners we had Option 3 saying the potential benefit of the drainage system design for a half inch drainage coefficient was \$1,932,500 plus dollars. That is what we said the value added to all those properties within that watershed will be with a half inch drainage coefficient vs. no ditch system out there. So that is how we looked at benefits. The damages that are shown on our report are temporary damages. That's for the construction right-of-way and the easement necessary to build this system. There are no buffer strip damages because there is no proposed open ditch so any damages are temporary with the construction only. Now we did come up with that little bit of land up in the northwest corner that Mr. Cowing came in and said that because this system did not function well it was his choice and he spent the extra money back whenever and took this 40 a couple acres here and this piece of land tiled that all north. Because that water no longer comes into that system it will reduce the total benefits of this by removal of those properties. He would have to pay to get back into this system.

Ringquist noted I didn't go into detail on Options 1 and 2 they get more complex because they're dealing with separation of separable maintenance vs. improvement costs but I will say that they were very close to start with and by removing those properties without a design and cost estimate, Options 1 and 2 are virtually not, these are almost dollar for dollar Option 2 is just a few thousand dollars less the benefits in cost is just a few thousand dollars more benefits than costs but they're so close to me that they're not feasible. So any questions of the board?

Potter: Were you able to get all the landowners come in and speak with you?

Ringquist: No. Most of them did not come in. That's very typical of these meetings. I have this is a process that everybody goes through once or twice in a lifetime and you may or may not understand what all of the process is. This one does have extremely large numbers because of the cost versus the watershed size. And we expected a bigger turnout.

Chad Diegnau: You said the determination of value on this you stated that like Class C land correct me if I'm wrong I wrote notes but that land was the biggest change in this and you said a lot of this land and maybe it's B or C would not be able to be drained without this ditch system in place. Am I correct in my statement?

Ringquist: The ditch system provides the outlet for the drainage of those lands, yes.

Chad Diegnau: But what about when you're the person that is providing the outlet on the property that's going to the creek? Virtually everything that we own we could privately drain without ever needing this county ditch. The only reason why we're into this is because this is the natural way for the ditch to go. We're benefiting all the people upland we could surely put our own private tile in there and a heck of a lot cheaper than \$93,000.

Ringquist: You may be able to put your own tile in but if everybody else's surface water is still coming across your property. I can't guarantee that's in your case. The engineering design is supposed to look at as the watershed as a whole.

Chad Diegnau: Has anybody looked into actually physically repairing it? There are parcels upstream that the water sits for days on end that we know there's obviously something is not working functionally with the system. But has anybody actually identified... we really haven't exhausted our means to looking at repair of the system. Another question is the report on the raising the Center Creek an inch with a 50 year rain and stuff; then what happens to all the people upstream that finally get the outlet they wanted and they put all this private tile into it instead of that tile running at 50% year round it's running full stream year round. What does that do to the impact on the creek?

Ringquist: We have no information on measurable damage to those properties adjacent to Center Creek. There was nothing in the report that showed that there was measurable damage to Center Creek. The analysis gets to be that if you take one inch of additional water every 50 years and you try to work that back to a present value, which might mean that there's no measurable difference for 49 out of 50 years. But we don't have any data to do that damage analysis as to the downstream effect that is an engineering issue. There's no scientific data that I can find to support that.

Mark Craven: I just want to make a statement when we're talking about people that showed up for this meeting. I was on vacation from the 17th until the 1st. I just looked at this packet on Saturday morning.

Ringquist: There are specific dates and timelines that must be met in giving notices. You can't give it two months ahead of time and you can't give it earlier than...

Craven: The other thing that I wanted to bring up is we had that meeting a year ago at the bank at Huntley and I thought at that time we discussed that they were going to start trying to determine where the blockage was on that tile. I thought they were going to hire a backhoe and go in and start digging it up and figure out where the blockage was but I don't think that ever happened and I was just wondering why that didn't happen.

Brandel: What you've got is segmented concrete tile system that you've got pieces that are like this and when you look at the capacity it is drastically reduced.

Diegnau: Allegedly. Does anybody know that for sure? Have you had cameras down in there to see all this?

Brandel: Most systems when they get to this age, every one that we've looked at looks like this. You've got cracked tile, you've got broken pieces, you've got offset joints and when you take that hydraulic efficiency and it could be a half to 20% of what it is you can get down to next to nothing for a drain coefficient which is what you have here. If you could see it on the aerial photo we could see it there are probably land owners that can attest to it. Then the other thing you had a question about is all of our calculations assume that all the water is getting in the tile. That it's all tiled at a 1/2 inch coefficient even though it's not. But we're assuming that everything is fully tiled in all of our calculations on how the water is raising and the efficiency of the tile. So a lot of these systems we go in and try to repair, dig them up when they're over 100 years old they're over 100 years old you end up chasing hundreds of feet of pipe because what's holding it in place is the ground. The concrete is shot. We see it over and over again.

Scott Robertson: I'm a land operator my granddad's farm is right here and I've been around here for 56 years and been farming for about 36 and this spot used to be a lot smaller in here and I understand what's going on down here where people say you don't need this. There's tiling going on down here constantly on the other end. Dick Mair, myself, we can't we're farmable wetland...we can't tile it. There's no tile going in up here and I with Mark too we talked about doing some televising. I don't know how far it went or where but a few years ago we took trees out of this grove and it solved the problem for a while...it helped. But this stuff moves about half the speed anymore. I don't know, but there's something blocking that thing and maybe it's like you say Chuck the offset tile too, I don't know. But it just seems to get worse.

Dick Mair: In the last ten years Martin County hired a camera and they started about our south fence line and headed south and they found as the engineer just talked about lots of tiles mismatched. They went in and dug them out, they got up to the grove right there next to County Road 38 and found that to be virtually 90% tree roots and they took that out of there and it did for about three years it did improve the drainage. It wasn't the best yet but it was improved and since that it's just been sitting and consistently gotten worse again.

Deb Mosloski: stated when they were at that meeting Huntley and it was actually Todd Golley's son that came and said that they owned their own equipment and that they would go out there and check to see if there was anything wrong. They volunteered to do that so that there would not be a cost to the system to the people. So they didn't submit a bill to me which normally would happen. Anytime a contractor is out there they would turn a bill into me and then I would have a record that they were out there. If they did that voluntarily I believe you guys Tom and Mr. Mair were both there.

Tom Maday: My opinion is it may be blocked a little bit but it is so undersized.

A member of the public inquired how many petitioners it takes to do a project like this.

Deter stated it takes twenty-six percent or more of the property that the improvement passes over.

It was asked how many does it take to kill it.

Deter: Really you're not going to like this answer. It isn't a raise your hands it is can those six things on the agenda be shown. This is a 100 year old statute that's the way they wrote the statute. These people might regret it long term if their system collapses. What would the cost be to run a parallel line and help the people upstream without disturbing it?

Brandel: If the whole system would collapse today, the whole system, we're over a million dollars. So the replacement is \$1.4 million that's your difference.

Scott Robertson: My question to Mr. Brandel is it typical to televise these things when you do studies or not. I mean what's it cost to televise tile?

Brandel: Sometimes they're televised. Sometimes we look at repair history; sometimes we talk with landowners that say yes there have been repairs. Right now at one hundred years every engineer that we've talked to has said I could research would say that tile is past its best shot.

Pierce: Can we televise it? We just bought a camera so it can be done. Let me ask two questions. I have a hard time comprehending this, this is 1,200 acres it takes a 60 inch outlet to drain 1,200 acres?

Brandel: It's 36 inch

Pierce: So we're spending a million and a half dollars to fix 48 acres? That's the part and it's not just this system it's all over the county...I don't understand that. That to me doesn't make sense. Let it flood.

Ringquist: Economically they're talking about 22 acres and turning black; 24 acres and turning black. It's the 40-60 acres around it that is only yielding from 10 to 50%. It takes 50% of this production to cover input costs without consideration of cash rent. So it isn't that you need zero yield it's you need one hundred to break even before you even start to pay for the equipment and the land and the other things.

Maday: For me it's not necessarily the drowned out acres, it's the saturated soils that you get from them.

Brandel: Conservatively we've seen 30, 40 acre corn bushel increases total on average so you're getting some from zero to 150...

Ringquist: Like I said, with the watershed with the acres out of the watershed the benefits are still approximately I have \$1.85 million something like that worth of benefits as a whole. That's present value of the benefits out there whether that be the sale value increase or that portion attributable to the increase cash flow in the appraisal that's the value from zero up to what they will have from what's out there.

Brandel: I guess the fall is toward the Center Creek that's the way tile breaks now we haven't looked at another option.

I just want to make a comment kind of on the order of what Steve was talking about the benefits per acre. It's only going to be beneficial if the farmer or the landowner takes advantage of that main tile going through their property. If they don't take advantage of that and don't want to tile or don't feel they need to then the benefit they're not going to get the benefit.

Deter: And unfortunately the statute is for potential benefit. You're absolutely right. But you're assessed for potential whether you take advantage of it or not is a management decision. I understand what you're saying but the statute lays it out as potential outlet. But I understand

Teubner: Well could you tell me how far north that tile is actually going to go?

Brandel: Under Option No. 3 it will go across 180th Street. It will go from this point here all the way down here.

Teubner: So I'm on the north side of 180th Street so that tile would not go onto my land

Brandel: It would go into your land in spots. You'd have the ability to hook up to the system. The other thing is the existing system would stay in place and be abandoned.

Belgard: So what we're talking about here is a lot of money for a small amount of acres but it was petitioned to do it. So Kurt (Deter) you have to help me out. Obviously there are people against it; obviously there are people for it. Tell me what we're obligated to do and if we are obligated to do that because they want us to do it you get a lawsuit from the people that don't want to do it but if we deny it at this stage the other people will say...

Deter: These are the options. No matter what you decide from when the Order is filed there is a 30 day appeal period and so there are two different types of appeals you can do. One is if the process was filed properly that's a court file I can tell you I believe the process has been followed. Then you're entitled to a jury trial whether you get the benefits or if you are awarded enough damages. So the options you have today are to continue this to a later date to allow further discussions and I'm not saying you should do that; but you know some of these gentlemen that oppose it don't sound like they oppose all drainage that they're not anti-drainage so maybe there'd be some reason for at least them to get together and see working with Chuck what other options there are...so that's one possibility. The second one is to look at the six items you see on the bottom of the agenda and decide whether all those have been met. As you know, most of them have been discussed and it's whether you believe they've been properly determined and whether the project is practical so you could approve the project; or you could decide to say they haven't been met. You could do that today but that's not the one that I would recommend. I would recommend at least a chance for discussions. You still may approve this ultimately just the way it is.

Potter: I was going to add a few things here that the first gentleman that left, we do not decide how to spend this money. We go by statute and we are bound by the law to follow the law and

the law says that 26% of the landowners can file this petition or 26% of the land itself if owned by one person. So then we go to the six criteria that Kurt just said are they met or are they not met and then we have to follow the law, if you don't, you could have a lawsuit on one side. We have no say. It's your dollars. You are paying for the ditch administration that the County administrates. It comes out of the ditch fund. We bought this new camera...it comes out of the ditch funds. Everybody does their share. My share of the new ditch camera because I'm a part of Ditch #39 was \$39.00. So we all pay for this stuff as landowners. We do not decide for or against you. I am thinking that with the fact that Craven was gone on vacation and did not get a chance to go over what he wants and the gentleman that just stepped out his name is Jim Teubner he made the statement that he needs more time to see how much tile he has going in the system now. If there are a lot more questions maybe we should wait and answer those questions. As far as what's going on in the County we're faced with this all the time because there are million dollar projects going on all over the County and Deb (Mosloski) has been very busy in the ditch administration office sending out these notices, making sure that everything is done properly. Nothing is being done wrong. Everything is being done properly and that makes it really tough on us when we have to vote yes or no. I guess being there is so much dissention on this Ron (Ringquist) hasn't met with some of the people, he's willing to do that. He's always willing to do that so if we need to have more questions answered by the people that we hope can answer them maybe we should delay the whole project for a little while. I sympathize with you but we can't change the rules and that's our problem that we don't like to face as ditch authorities. It's the statute and we have to vote on it. So I guess I would be in favor of if you gentlemen would be willing to go along with that is to delay this and if there is any more questions from Mark or Jim...get those questions answered.

Deter: The Board may want to continue this hearing to a specific time and date, early October, or whenever people are available.

Ringquist: I would say you're going to go 90 days out because people are harvesting. You're looking at continuing it until December. I would not ask people to get off a combine to come see me.

Belgard: What is going to change? Something's got to change or we've got to do this same thing in 90 days.

Deter: But then we'll know that nothing has changed. They also may come back after discussions and say we've worked with the engineer; we've been able to do some different things about this project that may make it more palatable. I don't know.

Potter: We've got the camera; we've got the experts to run the camera...

Deter: Again if you want to make a decision today it's your call.

Schmidtke: I'm not comfortable making a decision for you to go ahead with this today either. My thing is number six is not answered. To me there are too many things for me to say it is practicable. Still the other side says it is. I think we should get the camera out there and I know Mike (Forstner) has been very busy with that camera but at least then we have proof that what

condition the tile is, how it is setting, what it looks like, make sure we've covered every base. All we do is make a decision based on what everybody on the system wants but I can't vote for this today.

Chad Diegnau: What I'm still unclear of what makes this go or not go at this point in time. Who decides? I know these six findings. I don't know that much is going to change in 90 days. The whole point of it is for us people that we don't feel the assessment is fair for what benefits we're receiving. That's what it boils down to. If we could come up with a reasonable assessment that we can digest, fine. But in 90 days the assessment is still going to be \$195,000 or more.

Belgard: Somebody has to petition for it.

Schmidtke: I think we've met everything on there except number six.

Attorney for the petitioners Frundt: If my understanding is whether it is practicable or not it is whether they seek damages. I don't think it is a question if this is something that makes sense from the standpoint of do I think we really ought to go or not. It is have these six things been met and that sixth one is in my opinion really not.

Deter: And Chuck (Brandel) may be right on that, although an argument can be made that then it is redundant to number four because four says benefits are greater, I am not sure why number six in there. I wish they had a better word than practicable. I've done lots of projects where in between the first hearing and the second hearing there's discussions and things are worked out. This one may not. I'm not saying it is. If you feel comfortable making a decision today fine based on what you heard if you think hey I'd rather give it 90 days and digest and myself review a few things that's up to you. However, you either make a decision today or you continue it, which continuing hearings of projects this large are not unusual. That's not a new precedent on large projects we continue hearings all the time.

Schmidtke: I would like to see us get that camera out there, go through it, and make sure we're justified by that this is in that bad of shape.

Motion by Commissioner Belgard, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby set a Continuation Hearing Date of December 18, 2012 at 10:00 a.m. in the Commissioners Board Room (Martin County Courthouse, Fairmont, MN) to hear the Final Viewer's Report for the Redetermination of Benefits of JD #40; and that new Notices will be mailed to all landowners on JD #40; and to authorize use of the County camera to video current tile system; and to table acceptance of the Engineer's Report for a proposed Improvement of JD #40. Carried unanimously.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby set a Continuation Hearing Date of December 18, 2012 at 10:00 a.m. in the Commissioners Board Room (Martin County Courthouse-Fairmont, MN) to hear Determination

of Benefits for a proposed Improvement of JD #40; and that new Notices will be mailed to all landowners on JD #40. Carried unanimously.

The Board recessed at 12:05 p.m.

The Board reconvened at 12:09 p.m.

Forshee presented a revised CY2013 Preliminary budget and levy request which was a 13.58% levy increase over CY2012. As a result of Board discussion at the August 21, 2012 meeting, staff has made further adjustments to bring the levy down to an approximate 8.96% levy increase.

Discussion ensued regarding use of the County's reserve balance in the amount of \$250,000 brings the levy down to an approximate 6.55% levy increase; and with the use of reserves in the amount of \$325,000 brings the levy down to an approximate 5.95% levy increase for CY2013.

Motion by Commissioner Pierce, seconded by Commissioner Potter,

R-#42/'12

RESOLUTION

PROPOSING PRELIMINARY TAX LEVY FOR CY2013

WHEREAS, the Martin County Board of Commissioners met to review the recommended 2013 budget; and

WHEREAS, the 2013 recommended budget and levy was prepared with the participation of the Martin County Department Directors and Elected Officials.

THEREFORE BE IT RESOLVED, that on September 4, 2012 following discussion by the Martin County Board of Commissioners, the Board set the 2013 proposed levy at \$11,444,862 which equates to 5.95% increase over CY2012 levy; with proposed expenditures in the amount of \$21,682,462 and revenues in the amount of \$10,127,735.

BE IT FURTHER RESOLVED THAT BEFORE ADOPTION OF THE FINAL 2013 BUDGET, the Board may reduce the proposed levy but cannot increase the levy from the amount set on this date; and

BE IT FURTHER RESOLVED, that the Public Hearing for the CY2013 Budget will be held on Thursday, December 6, 2011 at 6:00 p.m. in the Commissioners Board Room – Room No. 103 – First Floor of Courthouse – Fairmont, MN.

Upon Motion made by Commissioner Pierce, seconded by Commissioner Potter, and unanimously carried, said resolution was duly passed and adopted this 4th day of September, 2012.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Belgard, Potter, Pierce, and Donnelly. NAYS: Commissioner Schmidtke. Motion carries.

Commissioners reviewed Health Insurance Renewal Information; Ochs Life Insurance Renewal Notice; Lake Management Plan Training Information from Martin SWCD; ITC Midwest Public Open House Information; and CY2013 Budget Appropriation Request received from the Martin County Fair Board.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby Receive and File the CY2013 Appropriation Request from the Martin County Fair Board. Carried unanimously.

Commissioners presented their Board member reports:

Commissioner Belgard stated he attended the Labor Management Committee meeting on August 21, 2012; 2012 Summer Youth Work Experience Program reception at Red Rock Center for the Arts on August 23rd; Substance Abuse Prevention Fall Pep Fest Event on August 24th; Annual Road and Tax Forfeited Land Tour at 7:00 a.m. on August 27th; Faribault County Joint Ditch meeting at 11:30 a.m. in Blue Earth, MN; Human Services meeting on Wednesday, August 29th.

Commissioner Pierce stated he had nothing new to add.

Commissioner Donnelly stated he attended an Advisory Group on August 21st; 2012 Summer Youth Work Experience Program reception at Red Rock Center for the Arts on August 23rd; Annual Road and Tax Forfeited Land Tour at 7:00 a.m. on August 27th; Human Services in Blue Earth, MN; Insurance Committee in Mankato, MN.

Commissioner Schmidtke stated he had nothing new to add.

Commissioner Potter stated he attended the 2012 Summer Youth Work Experience Program reception at Red Rock Center for the Arts on August 23rd; Ditch 7 meeting with Faribault County on August 28th; Corn and Soy Bean Growers meeting on Friday, August 31st.

Commissioners reviewed their calendars of upcoming meetings and activities: September 4th – Ditch Hearings at the KC Hall at 4:15 p.m., 5:00 p.m., and 5:15 p.m.; September 5th – Wellness Program Year End Weigh In: 7:00 a.m. Highway, 8:00 a.m. Courthouse, Region 9 Community and Economic Development meeting in Mankato from 9-11 a.m., Safety Committee meeting at

1:30 p.m.; September 6th – Bonding meeting with Bill Fahey at 9:00 a.m., CD #29 Informational meeting at 2:00 p.m.; September 10th – Rural Minnesota Energy Board meeting at Fairfax, Martin County EDA meeting at 5:15 p.m.; September 12th – Human Services Exec. Board at 9:00 a.m., Region 9 Full Board meeting; September 13th – ITC Midwest Public Open Houses; September 17th – Prairieland meetings at 8:30 a.m. and 9:00 a.m.; September 18th – Regular Board of Commissioners meeting at 9:00 a.m. in the Board Room.

With no further business to wit, Chairman Donnelly adjourned the meeting at 12:48 p.m.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator