

PROCEEDINGS OF THE
MARTIN COUNTY BOARD OF COMMISSIONERS
TUESDAY, DECEMBER 18, 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 Dan Schmidtke, Jack Potter, Elliot Belgard, Steve Pierce, and Steve Donnelly. Also present were Scott Higgins, Martin County Coordinator, James Forshee, Martin County Auditor/Treasurer, Jennifer Brookens, Sentinel Newspaper, Rod Halvorsen, KSUM/KFMC Radio, Terry Viesselman, Martin County Attorney, Kevin Peyman, Martin County Highway Engineer, Julie Walters, Administrative Assistant, and members of staff and public.

Chair Donnelly recognized Commissioner Jack Potter for his twelve (12) years of service as District 5 Commissioner for the citizens of Martin County and presented Potter with a commemorative clock.

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.

Terry Viesselman, Martin County Attorney, was present and stated he had nothing new to report.

Billee Rabbe, Solid Waste Coordinator for Faribault and Martin Counties, presented permit requests from businesses that have met the criteria to receive a license for collection and transportation of solid waste in Martin County and recommends approval, with the exception of The Trash Man, LLC and Waste Management, and will need to meet with them to review their application.

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, with the listed haulers having met the requirements for licensure in the County of Martin, MN hereby approve and authorize Board Chair and County Auditor/Treasurer, to sign the Solid Waste Collection and Recycle Transportation Licenses for the Year 2013 for the following haulers:

Martin County
Solid Waste Hauler License Log 2013

B & B Sanitation – Winnebago, MN
City of Fairmont – Fairmont, MN
Hansen Sanitation, Inc. – Kasota, MN
LJP Enterprises, Inc. – (Hauler) – St. Peter, MN
LJP Enterprises, Inc. – (Recycler) – St. Peter, MN
Madelia Sanitation, Inc. – Madelia, MN

River View Sanitation, Inc. – New Ulm, MN
Hometown Sanitation Services, LLC (Hauler) – Windom, MN
Hometown Sanitation Services, LLC (Recycler) – Windom, MN
Sanimax (Recycler) – South St. Paul, MN
Mike’s Trailer Rental (Hauler) – Fairmont, MN

Carried unanimously.

Scott Higgins, Martin County Coordinator, stated that previously the Board had reviewed various boards and committees with members’ terms that will expire in December, 2013. Higgins noted that five (5) members of the Martin County Water Plan Advisory Committee (Douglas Hilgendorf, Harold Rehling, Max Longley, Tonya Klunder, and Layne Ebeling), were asked if they wish to continue to serve on the committee; and that Harold Rehling and Tonya Klunder responded that they are interested and willing to serve an additional term; and the others have not yet responded.

Higgins continued that Stacie Anderson’s term on the Martin County Parks/Trail Committee is up in 2013. However, Anderson has indicated that due to scheduling conflicts she is unable to continue to serve through term end and the Commissioners will need to appoint one more At-Large member. After discussion,

Motion by Commissioner Schmidtke, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby approve the (re)appointments of the following citizens to the Martin County Water Plan Advisory Committee: Harold Rehling, and Tonya Klunder to serve a three year term with term ending December, 2015. Carried unanimously.

Kevin Peyman, Martin County Highway Engineer, presented a brief Highway Department update including plowing of roads in MartinCounty due to recent snows.

Jeff Markquart, Martin County Sheriff, stated that a part-time Communications Officer’s position has been terminated effective December 11, 2012 and asks that the Board accept this termination.

Motion by Commissioner Pierce, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve the termination of Carrie Tonne as part-time Communications Officer for the Martin County Sheriff’s Office effective December 11, 2012. Carried unanimously.

Markquart presented a Sheriff’s Office update stating the Sheriff’s Office has begun ARMER radio training with County and City staff.

Markquart stated that annually the Nursing Services contract is up for consideration and renewal. Markquart went on to state the 2013 proposed contract calls for regular nursing services at \$36.00 per hour (a 0% increase over the 2012 contract price) with time rounded up to the nearest ¼ hour with a minimum of 1 hour charge. Markquart noted on-call services and emergency call back fees and language remain the same as with the 2012 contract.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the Board Chair to sign the Nursing Services Agreement between Joy Pousch, RN, BSN and the Martin County Sheriff's Office (Martin County) to provide regular and on-call nursing services; at an hourly rate of \$36.00 per hour and on-call services of \$90 per month. Carried unanimously.

Kathy Smith, Director Martin Soil and Water Conservation District, presented the proposed service agreement to administer the CY2013 Martin County Water Plan Program in the amount of \$22,184 (CY2012 - \$21,145) which is derived from the 2013 Allocation from the Natural Resources Block Agreement Grant (NRBG) with \$13,697 in grant funds and \$8,487 County cash match; and proposed service agreement to administer the CY2013 MN Wetland Conservation Act (WCA) in the amount of \$17,556 with \$8,778 grant funding (NRBG) and \$8,778 County cash match.

Motion by Commissioner Pierce, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the Board Chair to sign the Service Agreements between Martin County Soil and Water Conservation District (SWCD) and Martin County for calendar year 2013 for Implementation of the Martin County Water Plan Program in the amount of \$22,184 (NRBG - \$13,697 and required County match of \$8,487); and to administer the Wetland Conservation Act (WCA) for calendar year 2013 in the amount of \$17,556 (NRBG \$8,778 and required County match of \$8,778). Carried unanimously.

Smith noted that the Martin County Soil and Water Conservation District received notification last week that SWCD's Clean Water Fund application that was submitted to the State was approved in the amount of \$314,000 (pending completed work plan) with funds to be used on County Road 36 bridgework, dam on CedarLake, and work on Elm Creek.

Higgins stated Minnesota Statutes require that bids be taken for Official County Newspaper for the publication of notices, Board minutes, etc. Higgins stated advertisement for bid was published and bid forms sent to the four newspapers in MartinCounty. Bids were due Monday, December 17, 2012 by 4:00 p.m. with bids opened during the regular Board of Commissioners meeting on Tuesday, December 18, 2012; and that bids will be awarded during the first regular Commissioners meeting in January, 2013. Bids were received from: The Truman Tribune, Sentinel Newspaper, and Fairmont Photo Press.

Higgins stated the Assessor's Office 1999 Ford Taurus fleet vehicle has met its useful mechanical life. Higgins went on to state it is being proposed that the 2006 Impala county fleet vehicle be designated for the Assessor's Office; and to purchase a new replacement vehicle for the regular county fleet. Higgins continued bids were requested and received for 4-door sedans as well as mini-vans from the State Contract bid as well as from local dealerships. Higgins noted the Building and Purchasing Committee has reviewed the bids and recommends purchase of a new replacement vehicle for the county fleet.

Vendor Name	Year/Make/Model	Flex Fuel	Delivered Price
Nelson Auto – Fergus Falls, MN	2012 Dodge Grand Caravan	Y	\$22,544.00 Plus Tax & License
Burnsville Dodge – Burnsville, MN	2013 Dodge Grand Caravan	Y	\$20,771.00 Plus Tax & License
Militello Motors – Fairmont, MN	2012 Dodge Grand Caravan	Y	\$21,500.00 Plus Tax & License

Ranger GM Hibbing – Hibbing, MN (State Bid)	2013 Chevrolet Impala	Y	\$18,341.20 Plus Tax & License
Hawkins Chevrolet – Fairmont, MN	2013 Chevrolet Impala LT	Y	\$20,550.00 Plus Tax & License
Hawkins Chevrolet – Fairmont, MN	2013 Chevrolet Impala LS	Y	\$19,444.00 Plus Tax & License
Mel Carlson Chevrolet – Truman, MN	2012 Chevrolet Impala LT	Y	\$22,590.00 Plus Tax & License

Motion by Commissioner Schmidtke, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby approve the purchase of a 2013 Chevrolet Impala LS Flex Fuel vehicle from Hawkins Chevrolet of Fairmont, MN in the low bid amount of \$19,444.00 (does not include tax and license). Carried unanimously.

Higgins presented and reviewed a resolution in support of amending Minnesota’s Safe Harbor Act to define all sex-trafficked children under the age of 18 as crime victims and not as juvenile delinquents. Higgins noted that delegates at the Association of Minnesota Counties (AMC) Annual Conference in St. Cloud recently passed a resolution in support of amending Minnesota’s Safe Harbor Act and is seeking statewide county board support.

Rebecca Bentele, Victim Services Coordinator, was also present to request Board support of amending Minnesota’s Safe Harbor Act.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke,

R-#66/’12

RESOLUTION

WHEREAS, Sex trafficking is a heinous crime that occurs throughout Minnesota and impacts Minnesota children from diverse geographic and socio-economic backgrounds; and

WHEREAS, The State of Minnesota and all 87 Minnesota Counties have long been committed to the protection of children and the prevention of sexual violence and exploitation; and

WHEREAS, According to the United States’ Trafficking Victims Protection Act of 2000, human trafficking is defined as the “recruitment, harboring, transportation, provision, or obtaining of a person to perform labor or a commercial sex act through force, fraud, or coercion;” and

WHEREAS, In addition, according to the United States Department of Justice, the Trafficking Victims Protection Act further states that “any commercial sex act performed by a person under age 18 is considered human trafficking, regardless of whether force, fraud, or coercion is involved;” and

WHEREAS, A Department of Justice, Office of Justice Programs, Fact Sheet on Human Trafficking states that as many as 300,000 children are at risk for sexual exploitation each year in the United States; and

WHEREAS, In a recent speech at the Clinton Global Initiative, President Barack Obama called human trafficking “by its true name – modern slavery;” and

WHEREAS, According to data compiled by both The Advocates for Human Rights and the Minnesota Office of Justice Programs of the Minnesota Department of Public Safety, the scope of sex trafficking in Minnesota includes the following:

- Over a three-year period ending in 2008, service providers identified 731 sex trafficking victim;
- 124 girls were sold on the internet in the month of August 2010 alone, which is a 55% increase since February 2010;
- The average age of a girl's entry into prostitution/sex trafficking is 12 to 14 years old;
- According to Breaking Free, 8,000 to 12,000 people are estimated to be involved in prostitution/sex trafficking in Minnesota every day; and

WHEREAS, To bolster actions by law enforcement, society should assist in eradicating such crimes by altering practices to make it more difficult for criminals to engage in sex trafficking in the state of Minnesota; and

WHEREAS, in 2011, the Minnesota Legislature and Governor Mark Dayton enacted the Safe Harbor for Sexually Exploited Youth Act, which identified prostituted children as victims of sexual exploitation and called upon the State to create a framework for implementation of the changes inherent in the new law by August 1, 2014; and

WHEREAS, Minnesota Counties can play a leading role in the fight against sex trafficking in Minnesota through their efforts around child protection, public health, human services, housing, law enforcement and prosecution and local county corrections and probation services; and

WHEREAS, Studies have shown that sexual exploitation – survival sex, prostitution, gang rape – affects as many as 40% of all runaway youth; and

WHEREAS, In Ramsey County, the Runaway Intervention Project has gained national attention as a “best results-oriented model” for working with runaway girls 15 and younger, including teen girls who have been prostituted. The Ramsey County Attorney's Office refers those girls who have been prostituted to the intensive services component of the Runaway Intervention Project at Midwest Children's Resource Center. The Ramsey County Attorney's Office has found that using a victim-centered public health model with this population – rather than treating them as delinquents – provides an environment for children who have been trafficked as prostitutes to rebuild their self-esteem, their family life, and their future; and

WHEREAS, As part of a Women's Foundation grant entitled *MN Girls Are Not for Sale*, the Ramsey County Attorney's Office (RCAO) and Saint Paul Police Department (SPPD) are conducting independent and coordinated systems audits to determine whether policies and practices comply with principles to ensure victim safety and intervention and offender accountability; and

WHEREAS, The *MN Girls Are Not for Sale* Campaign has garnered statewide support and national coverage for its efforts to identify and stop the sexual exploitation of girls in our communities;

NOW THEREFORE BE IT RESOLVED THAT: The Association of Minnesota Counties takes a leadership role in convening a statewide summit of County leaders around this issue to develop a victim-centered response to eliminate sex trafficking of our children; and

BE IT FURTHER RESOLVED THAT: The Association of Minnesota Counties supports the provision of state and federal resources to implement a comprehensive statewide “No Wrong Door” intervention model including shelter, housing, and services for child sex-trafficking victims, as well as training for law enforcement and other frontline personnel; and

BE IT FURTHER RESOLVED THAT: The Association of Minnesota Counties supports amending Minnesota’s Safe Harbor Act to define all sex-trafficked children under the age of 18 as crime victims, not as juvenile delinquents.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, resolution duly passed and adopted this 18th day of December, 2012.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, Coordinator

Roll Call AYES: Commissioners Pierce, Potter, Schmidtke, Belgard, and Donnelly. NAYS: None. Resolution duly passed and adopted this 18th day of December, 2012.

Higgins stated whenever donations to the County are received the Board must give its approval of acceptance for these donations and designate the donations for the purpose of donation(s). Higgins reviewed donations received in 2012 from the following County program(s):

- The Martin County Victim Witness Program \$ 500.00
- Martin County Mentoring Network \$10,031.58
- Martin County Veterans Service Office \$ 3,218.00
- Martin County EDA (Anticipated) \$ 500.00

Motion by Commissioner Pierce, seconded by Commissioner Potter,

R-#70/’12

RESOLUTION
APPROVING AND ACCEPTING DONATIONS FOR CY2012

WHEREAS, pursuant to Minnesota Statutes 465.03, the County shall by resolution of the governing body adopted by a two-thirds majority of its members accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor.

WHEREAS, the Martin County Mentoring Network has received donations from:

Bank Midwest	\$ 100.00
Great River Energy	\$ 1,000.00
Martin County Youth Foundation	\$ 1,000.00
Knights of Columbus	\$ 1,981.58
Welcome American Legion	\$ 200.00
Fairmont Fire Fighters	\$ 200.00
Fairmont American Legion	\$ 250.00
Alliant Energy	\$ 1,000.00
Martin County Fair Board	\$ 1,000.00
Rosen Family Foundation	\$ 1,000.00
Sherburn Community Chest	\$ 250.00
Martin County Youth Foundation	\$ 1,500.00
Valero Renewables	\$ 300.00
ITC Midwest (Anticipated)	\$ 250.00
Total	\$10,031.58

WHEREAS, the Martin County Victim Witness Program has received donations from:

Truman Westford Waverly Community Chest	\$ 500.00
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WHEREAS, the Martin County Veterans Service Office has received donations from:

Chapter 32 Disabled American Veterans	\$ 500.00
Veterans Van Service	\$ 420.00
MN Department of Veterans Affairs	<u>\$ 2,298.00</u>
Total	\$ 3,218.00

WHEREAS, the Martin County EDA Commission is anticipating a donation from:

ITC Midwest (Anticipated)	<u>\$ 500.00</u>
Total	\$ 500.00

WHEREAS, the Martin County Mentoring Network wishes to accept these donations and utilize them for the purpose of operational costs of the Martin County Mentoring Network; and the Martin County Victim Witness Program wishes to accept these donations and utilize them for the Community Coordinated Response (CCR) Team; and the Martin County Veterans Service Office wishes to accept these donations and utilize them for the purchase of a veterans service van and veterans outreach programs and services; and the Martin County EDA Commission wishes to accept these donations and utilize them for EDA/IGNITE programs and services.

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners hereby accepts the listed donations to be used for the operational costs for the Martin County Mentoring Network; accepts the listed donations to be used for the Community Coordinated Response (CCR) Team for the Martin County Victim Witness Program; and accepts the listed donations to be used towards the purchase of a veterans service van and for veterans outreach programs and services for the Veterans Service Office; and accepts the listed donations to be used for EDA/IGNITE programs and services.

Motion by Commissioner Pierce, seconded by Commissioner Potter, said resolution was duly passed and adopted this 18th day of December, 2012.

BOARD OF COMMISSIONERS
MARTINCOUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Belgard, Schmidtke, Potter, Pierce, and Donnelly. NAYS: None. Resolution duly passed and adopted this 18th day of December, 2012.

Higgins stated the Board is being asked to remove and dispose of buildings on a parcel located near Northrop, MN that are considered hazardous to the condition of the real estate; and that MN Statute gives the local governing body authority to demolish hazardous buildings.

Commissioner Potter stated he has talked with the individual that owns the property and that the individual does not have funds to pay for the repair, demolition, or clean-up of the property. Potter continued after talking with the County Sanitarian, the County Attorney, and Commissioner Pierce, he was informed that the County would have to go through the normal channels and determine whether or not the property is a hazardous property per the law; and after the property has been determined to be a hazardous property, Martin County could then assume the responsibility in having the property cleaned up. However, the clean-up cost would be applied against the property.

After discussion,

Motion by Commissioner Potter, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby approve moving forward with the determination on whether or not the property is considered hazardous, and to authorize demolition and clean-up of the property in the removal of the certain hazardous buildings located on Parcel No. 160070075, and to authorize obtaining bids for the demolition and removal of the hazardous property/buildings; and that the clean-up cost be applied as an lien/assessment as allowed by law on the property; and that the cost of the removal is to be expended from the Solid Waste Fund. Those voting in favor: Commissioners Pierce, Potter, and Belgard, Donnelly. Those voting against: Commissioner Schmidtke. Motion carried.

Higgins presented the resolution Establishing the Tax Levy for 2013 collectible in 2014 in the amount of \$11,444,862 (5.95 percent increase from 2012).

Motion by Commissioner Belgard, seconded by Commissioner Pierce,

R-#68/'12

RESOLUTION

ESTABLISHING THE TAX LEVY FOR YEAR 2013 COLLECTIBLE IN 2014:

WHEREAS, the Martin County Board of Commissioners duly considered budgets to determine the tax levy to be collected in 2013.

NOW THEREFORE, BE IT RESOLVED, that the Martin County Board of Commissioners do hereby order and determine that taxes to be levied in the year 2013 and collectible in the year 2014 be as follows to-wit:

	<u>Net Levy</u>
Revenue Fund	\$ 5,374,793
Boat/Snowmobile	\$ 7,435
Road & Bridge Fund	\$ 2,380,655
Parks and Rec.	\$ 53,745
Solid Waste Management Fund	\$ -0-
Library Fund	\$ 643,348
Human Service Fund	\$ 2,532,634
Transit	\$ 53,500
Building CIP Fund	\$ 75,000
Debt Service Fund/Hwy Debt Service	\$ 266,567
Tax Forfeited Land	\$ 5,000
Economic Development	<u>\$ 52,185</u>
TOTAL TAX LEVY	\$11,444,862

BE IT FINALLY RESOLVED, that copies of this resolution be filed with the Martin County Auditor/Treasurer; and

Upon Motion made by Commissioner Belgard, seconded by Commissioner Pierce, and unanimously carried, said resolution was duly passed and adopted this 18th day of December, 2012.

BOARD OF COMMISSIONERS
MARTINCOUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Schmidtke, Potter, Pierce, Belgard, and Donnelly. NAYS: None. Resolution duly passed and adopted this 18th day of December, 2012.

Higgins next presented the resolution Establishing the CY2012 Fund Expenditures and Revenues. Fund expenditures for 2013 are estimated at \$21, 682,462 and fund revenues are estimated at \$21,572,597. After discussion and consideration,

Motion by Commissioner Pierce, seconded by Commissioner Belgard,

R-#69/'12

RESOLUTION

ESTABLISHING THE FUND EXPENDITURES AND REVENUES
FOR THE YEAR 2013

WHEREAS, the Martin County Board of Commissioners duly considered fund Expenditures and Revenues for the year 2013.

NOW THEREFORE, BE IT RESOLVED, that the Martin County Board of Commissioners do hereby order and determine that fund expenditures and revenues for the year 2013, is as follows:

	<u>Expenditures</u>	<u>Revenues</u>
Revenue Fund	\$ 8,202,673	\$ 2,502,880
Parks & Recreation	\$ 117,518	\$ 63,773
Road & Bridge	\$ 7,774,911	\$ 5,294,256
E-911 Fund	\$ 65,270	\$ 98,600
Sheriff Contingency Fund	\$ 5,000	\$ 5,000
Boat & Water/ATV	\$ 20,869	\$ 13,434
Solid Waste	\$ 549,577	\$ 842,429
Library	\$ 675,818	\$ 23,000
Law Library	\$ 32,000	\$ 15,000
Human Services	\$ 2,532,634	\$ -0-
Recorders Technology Fund	\$ 10,000	\$ 40,000
Recorders Compliance Fund	\$ 27,000	\$ 44,000
Building CIP Fund	\$ 75,000	\$ -0-
Human Services Building	\$ 145,000	\$ 163,800
Hwy Debt Service	\$ 266,567	\$ -0-
Prairieland Debt Service	\$ -0-	\$ -0-
Forfeited Land	\$ 7,000	\$ 2,000
ISTS Loan	\$ 201,800	\$ 143,000
Martin County Express	\$ 880,015	\$ 834,938
MC Area Redevelopment Agency	\$ -0-	\$ -0-
Economic Development	\$ 93,810	\$ 41,625
General Tax Levy	<u>\$ -0-</u>	<u>\$11,444,862</u>
TOTAL	\$21,682,462	\$21,572,597

Upon motion by Commissioner Pierce, seconded by Commissioner Belgard, and carried, said resolution was duly passed and adopted this 18th day of December, 2012.

BOARD OF COMMISSIONERS
MARTINCOUNTY, 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 18th day of December, 2012.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve payment of claims for the month of December, 2012 as presented; and includes the Martin County Highway Department bills as presented and Drainage Administration bills as presented. Carried unanimously.

Warrants received and paid December 18, 2012 re registered on file in the Auditor/Treasurer's Office as follows:

Revenue Fund – Warrants Approved December 18, 2012	\$275,849.21
Enhanced 9-1-1 Fund	\$ 18,544.70
Sheriff's Contingency Fund	\$ 44.89
Martin Co. Economic Development Authority	\$ 382.75
Solid Waste Management Fund	\$ 20,507.68
Law Library Fund	\$ 3,740.27
Martin County Transit Fund	\$ 51,530.81
County Attorney's Forfeiture	\$ 5,329.47
Recorder's Technology	\$ 11,422.27
Ind. Sewage Treatment Sys. Loan Fund (ISTS)	\$ 21,295.00
Building – CIP – Fund	\$ 19,038.20
Bank Building Fund	\$ 4,988.29
Forfeited Tax Fund	\$ 1,350.76
Total	\$434,024.30
Road and Bridge Funds Totaled	\$117,710.54
Martin County Ditch Fund – Warrants Totaled	\$167,701.47

The Board reviewed CY2012 YTD County Financial/Fund Balance information; County Fee Schedule; and Martin County Board Standing Committee Assignments.

Commissioners presented their individual board member reports:

Commissioner Potter stated he attended the regular Commissioners meeting and Truth in Taxation meeting on December 6th; went with Mark Bauman to St. Peter – Nicollet County Courthouse – to talk about working with the Tri-County to get rubbish coming into Truman at

the Prairieland facility and there will be another meeting on March 1st; Salvation Army Red Bag pick up on December 8th; Library meeting on December 11th; Martin Soil and Water Conservation District meeting and Compensation Advisory Committee meeting on December 13th; and Prairieland meeting on December 14th.

Commissioners Schmidtke, Donnelly, Belgard, and Pierce each stated they had nothing new to add to what was already mentioned.

Commissioners reviewed their calendars of upcoming meetings and activities: December 18th – Annual Holiday Potluck at 11:30 a.m. and Farewell Reception for Commissioner Jack Potter at 3:00 p.m.; December 19th – Human Services meeting and ditch meeting with Faribault County in the Faribault County Board Room at 8:30 a.m., and ITC meeting in the Faribault County Board Room after Human Services meeting.

The Board recessed at 9:55 a.m.

The Board reconvened at 10:00 a.m.

Chairman Donnelly welcomed those present to the public hearing on Engineer's Amended reports and determination of benefits for a proposed Improvement of JD #40. Those present were Commissioners Belgard, Pierce, Donnelly, Schmidtke, and Potter. Also present were Kurt Deter, Attorney with Rinke Noonan of St. Cloud, MN; Chuck Brandel, Project Engineer with I&S Engineers, James Forshee, Martin County Auditor/Treasurer, Scott Higgins, County Coordinator, Deb Mosloski, Martin County Drainage Specialist, Mike Forstner, Ditch Inspector, Ron Ringquist, Viewer, Chuck Bowers, Viewer, Jim Weidemann, Viewer, Chad Diegnau, Landowner, Craig Diegnau, Landowner, Ron Bahr, Landowner, Steve Flohrs, Martin County Commissioner elect, Tom Maday, Landowner, Michael Johnson of Frundt, Frundt & Johnson in Blue Earth, MN attorney for the petitioners, Mike Findley, Landowner, Richard Mair, Landowner, Rich Perrine, Martin Soil and Water Conservation District/Martin County Water Plan, Robert Kesselring Sr., Landowner, Carol Teubner, Landowner, Ralph Messer, Landowner.

Kurt Deter, Attorney with Rinke Noonan of St. Cloud, MN stated members of the Board as you may recall we had the first final hearing on this matter on September 4, 2012. There are two issues before the Board today or two different hearings. The first one is the Final Hearing or the continued Final Hearing on this proposed Improvement. At the same time that you ordered the Viewers to do their Viewers Report on the Improvement you ordered them to do a Redetermination of Benefits. So it's two separate hearings that are related to the same project. As you will recall on September 4, 2012 there was considerable discussion about this project...my recollection I believe there were three different options at that time; and each of those if not two of the three or all three involve Separable Maintenance which involves the determination of whether the current condition is out of repair. As a result of that hearing the Board directed Mr. Brandel who is the Drainage Authority's Engineer for the proposed Improvement to go out and do two things: (1) was kind of a general discussion of look at other options. You didn't correct him on any particular option there were just discussions in the room that day about Chuck why don't you go out and meet with people and see if there's any other options including the three you presented. I think that's one of the things that Mr. Brandel may be presenting to you today; and (2) at that time there was discussion that the County either owns

or was leasing a camera and that we might be able to get some better information on the condition of the current tile system. And again I believe you directed Mr. Brandel to explore that and get what information he could on the condition of the current system. So again as to the Final Hearing or continued Final Hearing on the Improvement, first is to again discuss Brandel's Final Engineers Report with any existing options or any other options he came up with and allow that for discussion; and then secondly because I believe they involve Separable Maintenance to discuss his findings as to the current condition of the system. Deter noted and you'll see on the agenda that you have in front of you but it's the one that says Final Hearing. There's two different agendas just to make sure you're following the right one; that Mr. Brandel give his report, Mr. Johnson with Frundt, Frundt, & Johnson may have some comments, and the public will be able to have input, and the Viewers will then give their report and again Mr. Johnson may have comments on that and again public will be going through their comments and questions; and then under No. IX it sometimes helps the Drainage Authority to know what decisions they have to make under of the Statutes and I'm sure when we get to that point the Board may have questions of me as to what your decision must involve one way or the other whatever you decide. If there are no questions of me as to procedure, then I suggest Mr. Brandel report back to you as you directed on September 4, 2012.

Chuck Brandel, I&S Engineers, stated he will briefly go over the project and update for those that may not have been here last time. The proposed project was an Improvement to Judicial Ditch #40 (called JD #40). The existing 16", 14", 12" and 8" main the proposal included replacing it with a 36" main at the outlet, a 30" main for a large portion, a 24" main, an 18" main on Branch B, and then branches throughout the system. At the first hearing we had three options: Option No. 1 was to just do the main and part of Branch B; Option No. 2 was to do the main and some of the branches; and Option No. 3 was to completely redo the system. Brandel went on to state in relooking at the system after the first hearing we looked at a couple different options. We looked at putting in an open ditch at the outlet instead of the 36" main. The costs were relatively close to the same as the 36" so we didn't include that. It would have taken some land out of production. So what we looked at was can we make some of the branches more effective like Branch I (pointing on map) and actually anything that changed on the map that you have if you can't see up here would be the red lines. Branch E ran through here across the road. We talked to a few landowners with discussion that there is already a new private main up on a portion of Branch B so that could be eliminated and Branch H could be more effective by moving it; Branch C could be excluded if we move the main slightly to the south, it would go through all four corners of these properties. In doing so the cost for a complete replacement went from \$1.46 million to \$1.26 million, about a \$200,000 savings. So I think that's what the Board had asked us to do to see if there was a way to save money on the system by being more efficient and that's what we did. So Option No. 4 would not be a complete replacement of the system and a cost of \$1.26 million. Brandel noted now, if the system failed today and it needed to be replaced all the branches, all the main lines, that cost would be \$960,000. So just comparing what you have and what it could be improved to would be about a \$300,000 difference. Just to remind everybody on what the capacity of the system is now. If the existing system was brand new we have anywhere from a .1 to a .05 to .03 drainage coefficient. What that means is how many inches per day per acre can the system handle. Today's standards are a half inch for a system this size as an improvement as a half inch or better. So comparing apples to apples if the existing system was brand new compared to the improved system you'd have 10

times of an improvement. Brandel went on to note reviewing the old system a portion was televised and Mike Forstner, Martin County Ditch Inspector, did the televising. We had Shawn Michaelson from my office there, took some pictures, it was televised approximately right here (pointing on map) on the Mair/Findley property line. And here is a picture this is looking south and this is looking north. You can see that there's an offset joint here and there's another offset joint here. There's probably 2-3 inches of mud in the pipe and same going the other direction offset joints. This is probably decreasing the efficiency by 40% because it is definitely out of repair, you can see it, here because the joints are offset and that greatly reduces the efficiency of the tile.

Brandel asked Mike Forstner how many feet did you get each way (camera) I know it wasn't very much.

Forstner stated on that south one I just made it to that joint...that really bad one as I couldn't get past that point. And going north about 75 feet before the camera couldn't get through the mud. Brandel stated and remember this is in dry conditions. So in summary there's Option No. 4 is what we would recommend because it is only \$300,000 more than what it would cost to repair the system so that would be a feasible option if the Viewers find enough benefits in their report and based on the small section that we did do, that this system is in my opinion, would be out of repair. Cost estimates for Option No. 1 previously was \$1.06 million; Option No. 2 was \$1.3 million; Option No. 3 was \$1.4 million; and what I'm recommending back to the Board would be to consider Option No. 4 at a \$200,000 savings and a complete replacement of the system. The difference between the estimated project cost and separable maintenance is \$302,000.

Commissioner Potter stated this is just to repair the system as is?

Brandel stated if we replaced every pipe that is out there, yes, that's what the cost based on the pipe sizes in the original report.

Michael Johnson, Attorney for Petitioners stated Mr. Brandel you testified that this system is out of repair and you have the picture to demonstrate that. Do you have any characterization as to this being something that could be cleaned out, jet tiled, hit and miss here and there replace a few tile? That type of thing?

Brandel stated well most of it has a couple inches of mud in it, you can't jet tile segmented tile. There are points you would actually make the problem worse. By jetting it out you'd take all the joints between and open them up to allow more sediment to get into the tile. Pipes that are cracked or brittle would probably end up breaking. So jetting it is not an option. If it was a newer dual wall or even a concrete pipe with joints that were water-tight, you could do that. But not with this type of system. So you'd do more harm. The only way to replace it would be to put in new tile.

Johnson stated you've stated that the lack of efficiency compared to the original design from a hundred years ago is a decrease of you say 30 or 40%?

Brandel stated yes. It varies because of the depth of the mud and the offset joints.

Johnson stated and the design from a hundred years ago was designed for a system that would meet the needs of agriculture of a hundred years ago as it was practiced at that time. Is that correct?

Brandel stated correct, yeah.

Johnson stated and I'm assuming that a hundred years ago there was pasture land, there were sloughs, there were all kinds of other uses for the property that were not modern, agricultural usage.

Brandel stated and that's why today we have...a minimum is a .5 drainage coefficients. An open ditch we went to get to a 1 and in some areas we even size greater than a .5.

Johnson stated and if this was repaired by putting in all new tile as originally designed; what coefficient would we have today then?

Brandel stated it varies throughout the system anywhere from a .1 down to a .05 and .03.

Johnson stated so it would be maybe 1/5th at most of the modern design?

Brandel stated correct.

Johnson stated so compared to what you get in a new system you'd maybe get 20% efficiency at best by redoing this system.

Brandel stated yes.

Johnson stated and in your opinion that means this is out of repair.

Brandel stated well just by seeing the mud in the tile and the offset joints, it is out of repair. You can tell it's out of repair by that. Also from an age standpoint you can't clean it, you can't repair it effectively without putting in new tile.

Johnson stated is that unusual for a hundred year old system?

Brandel stated no we've seen that quite a bit. It is pretty common. A lot of the systems we see now that are a hundred years old you open them up and end up replacing five or six tile because they're cracked and brittle. You've got a lot of offset joints because they were put in shallow like portions of this system were and frost has affected them since they're not tight together and the joints are moving apart; and when you look at hydraulic design the smoothness of the pipe, the smoothness of the system is a big factor. So by having those offset joints you could decrease capacity by 50%.

Johnson stated and in modern agriculture is it true that the efficiency is extremely important to get the water out of there at relatively a quick period of time?

Brandel stated yes. That's why we looked at a drainage coefficient of how many inches per day can you get off of the land. The quicker you can get a two inch rain off the better yield you'll see out of the crops.

Johnson stated so as I understand it then you're saying this is no question it is out of repair and it has always been your opinion there's no question about it being out of repair.

Brandel stated yes and the tape confirmed that.

Johnson stated and then the next question is your proposal Option No. 4 is it in your opinion feasible to do this option?

Brandel stated yes, it is feasible. We've got the depth at the outlet, we've already got a permit from the railroad and it is very feasible, it is very constructible. From a cost standpoint compared to other systems that we're looking at it is about the same cost per acre.

Johnson stated and you're recommending this Option No. 4 now?

Brandel stated I'm recommending Option No. 4, yes.

Johnson stated another statement I think you made is that it is practical also. Is that your opinion?

Brandel stated yes, it is practical. I mean you look at some of the areas that are flooding out and having issues. We looked at aerial photos from over the last ten to fifteen years and you could see some of these areas getting worse by looking at distressed areas on the fields.

Johnson stated so your opinion is that drainage has deteriorated even over this period of time that you have viewed the aerial photos.

Brandel stated correct.

Johnson stated do you think it is a reasonable definition of the word practical to use a synonym as the word useful. Does that make sense to you?

Brandel stated yes.

Johnson stated if you were to look at the dictionary would you be surprised to see the word useful in there?

Brandel stated no, I would not.

Johnson stated okay. And in your opinion is this a useful way to improve this land and this drainage system?

Brandel stated yes, it is and I've worked on similar systems and have done similar projects and it has been useful, it has increased yields, it has increased land values, and it has prevented blow outs and other things that happen on these deteriorated systems.

Johnson concluded thank you. I have no further questions.

Chairman Donnelly asked that when members of the public speak that they state their names first.

Kurt Deter stated Mr. Chair, then we're opening it up to any questions from the public of Mr. Brandel. I think that's probably the stage where we're at.

Chad Diegnau, Landowner inquired so you're telling me that over the last ten to fifteen years that the drainage on the northern part of the system has worsened in the last ten to fifteen years?

Brandel stated looking at the aerial photos and it depends on what time they were taken; but you saw more spots like this (pointing to photo). The reason we look at that No. 1 is we're looking at if there's any wetlands in the system...over the years are these areas causing issues with the system; and it looks like it is getting worse. Each year is different because you get different rainfall each year but it just progressively more areas that appear in rough shape.

Chad Diegnau stated I think there are several people here in this room that will attest that it hasn't changed in the last ten to fifteen years. That we have not seen it worsened but that's solely my opinion. The point that the Commissioners need to understand is that there's people downstream that are affected by this also. And now you talk last meeting about yes possibly raising the water level downstream to the creek outlet as being a minimal amount. But there are people downstream that minimal amount means an awful lot of water downstream when they already have problems with flooding, roads under water. Downstream by the gun club we've seen that several times under water. Any additional water put into the system I think is going to have a negative effect. So are we gaining upstream to lose downstream is my question.

Brandel stated well if I go back to the final report, I believe we did an analysis on portions of Center Creek and I think the changes were minor and when you do modeling I thought it was 1/10th of a foot which in modeling is almost insignificant.

Chad Diegnau stated but on a flat piece of ground an inch of water runs a long ways. That's my opinion.

Brandel stated and I did review that with the Department of Natural Resources (DNR) and went through that process. One thing you will see and I talked about this last time, you've got some culverts through the railroad...you will see a decrease in overland flow. Say for a two inch rain you're going to see more water in the tile versus overland flow. So even the downstream portions will see less water overland than they would in the current state. That's in the final report.

Chad Diegnau stated, but again the main outlet that we have in this area is our natural water systems, our creeks and rivers. So yes we're diverting more of this water through the tile but in essence it is ending up in a creek that is already several times over the course of the year is out of its banks and is already struggling to get rid of the water, I don't see the value in putting more to the tile, and yes maybe there's more of the water that is not surface running but in essence it all ends up in the same place, it is creating problems downstream and none of those landowners are even invited to be here.

Brandel stated, one thing I will add is we're not changing any of the overland flow culverts. So the only change is the tile system itself.

Chad Diegnau stated the one thing that I think is important to me and my brother to understand that as you were talking about the effectiveness of the tile system when it gets to our property line you said the current system has a coefficient of .5? On the south end?

Brandel stated the current system is about .1.

Chad Diegnau stated on the south end?

Brandel stated yes.

Chad Diegnau stated you just told me it was at a .5 when it got to the south end of the system.

Brandel stated for the proposed improvement is .5. For the existing system it is .10 at the outlet.

Chad Diegnau stated so you said it varied at different spots on the old system.

Brandel stated yes, (pointing to map) there are areas that are .. .1 here, .13, .1, and then once you get up in this area it is .05 pretty consistently until you get up to this area where it is .03. That's in the final report. The proposed conditions would be a .5

Kesselring stated at the extreme south end where I'm at that's open and running good and I've tiled new land and that thing's running real good down there at the south end and it's open. And I've seen a lot more water. I've seen that thing almost full. The south end is fine, working fine. I don't know how far up; but it's working real good. But when we get a lot of rain it does flood. It does flood. I get flooded then across the Faribault County line it really does flood. Now when we get rain it does flood. When you do this...are you going to propose a new line or are you going to rip mine out that I've got now or?

Brandel stated we'd put a new line next to it.

Kesselring stated that with a new line next to it, then you're going to disrupt my tile I just got done tiling too. Will that all be properly put in?

Brandel stated yes, we figured in tile connections throughout the system from where we know they're at.

Kesselring stated I just got done tiling the last two years I got them all updated. Right beside it...and you're going to leave the old one there?

Brandel stated we'll leave the old one there.

Kesselring inquired how big is this new one going to be?

Brandel stated at your location a 36".

Kesselring asked how much? What am I now, 16"?

Brandel stated 16".

Kesselring stated yeah, that's what I figured. Oh you're going to put a lot of water in that creek too I bet. You are going to put a lot of water in there when we get heavy rains.

Rich Perrine stated at our last Water Plan Advisory Committee meeting we discussed improving outlets in the watershed...my question is when you came up with the benefit for the system and find this feasible how are you looking at the downstream effect?

Brandel stated I'm not looking at any dollar values for the land. I'm just looking at the cost for the hydraulic impact. In reviewing the hydrologic impact, it's insignificant to the creek. That's a question for the Viewers. This one did not have a spot where you could...the first thing we look at is could you do it without taking more land out of production. Because it is so flat if it weren't for the railroad tracks it is just tough to do it without flooding a large area. So that's why we didn't recommend any in our report. I did review that with Leo Getsfried (DNR). At some point it will be a requirement...that's my opinion. That's why we're trying to look at it on every system.

Chad Diegnau stated it's because they have a holding area for it. The people downstream. That's where the water will end up.

Deb Mosloski, Martin County Drainage Administration, stated for the record I did get a telephone call from Marcella Peppard this morning. She wanted you to know that she wasn't for this project as she is sick and her son is sick and they couldn't be here. I did go through some of the reports with her, and explained it.

Deter stated Mr. Chairman, now we have the Viewers report. The project has been changed somewhat so there needed to be an amended Viewers Report and needs to be presented.

Ron Ringquist, Viewer, stated he is one of the three viewers that worked on this report. As of the last time you know that we are actually doing two separate reports. The one is the Redetermination of Benefits and is just updating the values and the properties that are using the current system, assuming it's in as constructed and working condition. As Mr. Brandel said, that's not what's out there today, but we go through the engineering with him as to what would this system work like, assuming it was working as the day it was installed. And we put today's

use and value on the value added to the properties within the watershed from the system that currently exists. Ringquist went on to state we went over that at the last hearing and I won't spend a lot of time specifically on the Redetermination. But that's what we've been doing in Martin County even without the proposed improvement is trying to make certain that everybody that is using the system is paying their fair share into the maintenance of the system as it exists. So what we did then originally we had four various reports: one for the Redetermination, one for each of the three other options. We've done the same thing now with Option No. 4 and that was handed out to you today and I think Mr. Deter said we were requested to look at these. What we have done then is we have done a Determination of Benefits and as Mr. Brandel said that's dealing with the difference between the system that out there and the increased capacity and value added because he was proposing to increase the size from the .1 or whatever up to the .5 capacity. What that tells us is that production is going to increase, the better the outlet today the higher the land values, and so we went through and we analyzed what changes would be provided by going to Option No. 4 rather than Option No. 3. The report shows that there are benefits because you've increased that. We applied the new varied costs and because he isn't replacing foot for foot we made some minor adjustments to reflect the new alignment of what is going to be considered public tile. So within the report that we have submitted if there is a negative number in the number of feet of tile that's because the new proposed alignment is shorter than the original alignment and therefore we've removed that difference in length as being a public benefit or a benefit to your property because the private tile will not be plugged or abandoned; but it will be public responsibility to maintain that. So first thing we did is we went through and we relooked at the new alignment, the new system, and the new cost. When we did that we came up with a value using the values that we used this past spring and under that approach we came up with benefits of the Improvement of about \$489,000. That is not one of the reports that was submitted to you (I don't think). The reason it was not submitted is because as you all know land values have continued to appreciate and we were using value considerations from almost a year ago and it is my understanding that the value the dates of value actually will be the day that the Board accepts the reports. We have reevaluated land values and what parts of those values were attributable to the outlet for drainage systems and the systems that we were viewing this fall. Ringquist continued and in doing that we have come up with a higher value because commodity prices are higher, land values are higher, and so in order to defend a current value we felt we must use the higher value in the reports that we've submitted. Proportionally it shouldn't change cost factors for anybody because everybody's value went up the same amount. But in defending that in today's market the recommended values in Option No. 4 that we are submitting and we have also updated in your redetermination the benefits and that has not all been accepted either are more defensible in today's market than the smaller values from last spring. Ringquist noted so on the improvement, Option No. 4 Viewers Report we have on the 4th page of the cover letter the major change that supports not just the sales evaluations but the income approach as well is everything is pretty much the same except we used \$5.50 per bushel for corn rather than last spring we were using \$5.00 per bushel; and we used \$12.50 for beans rather than \$12.00 for beans that we were using last spring. When you do that income analysis it raised the values of the various soils (inaudible) on the "A's" and "B's" and so the report as we recommend it now for the Boards adoption assuming that all of the other criteria are met to adopt the Improvement Report now uses those commodity values, it uses a high value for the land sales of \$10,000 versus \$9,000 an acre that we were looking at last spring. With those new considerations within the report we have removed these couple of properties here on the

northwest corner that were discussed at the last hearing that have all now been drained to the north so they are no longer listed in the Viewers Report. The names are in there but within the report itself there is no value as to the net benefits. So we have made the adjustments to reflect removing those properties from the watershed. With those considerations and the adjustment down for the length of tile, the proposed Improvement will have a benefit of \$560,747.46. As far as the land classifications whether they're "A", "B", or "C" or their need for drainage compared with drained or not drained we used the exact same classifications that we did in all of the other reports.

With no further staff report, Chairman Donnelly opened the public hearing on the Engineer's Final Reports and Viewer's Determination of Benefits for a Proposed Improvement of JD #40. Commissioner Schmidtke inquired you say you took a couple properties off...have they always drained out, and when you redetermined you found out they were draining a different direction. Or did they bail out now with the cost of the project?

Ringquist stated no they had been tiled out for years. It made sense that with the deficiencies that Mr. Brandel was talking about they had the opportunity to take it right to the river and have an adequate outlet versus trying to force it into an inadequate outlet. When you're down in that .03 there wasn't much of an outlet for those so they had the opportunity and they drained it all north to the creek many years ago.

Craig Diegnau, Landowner, stated so just so I clarify that you're value of these benefits now is figured at today's commodity prices and that will be set at that rate now and forever then, correct?

Ringquist stated the valuation is as of a date specific.

Craig Diegnau stated correct. So if we say today for example when you use your \$12.50 and your \$5.50 then so all of us are farmers in this room what happens when commodity prices stumble and fall and drop again. We're still at that same determination or value then?

Ringquist stated the valuation is as of the date the Board accepts this report. If market values go down everything goes down.

Craig Diegnau stated if corn were at \$3.00 right now we wouldn't even be at this meeting, so.

Ringquist stated that is correct. If corn went down and construction prices didn't everything is relative...

Craig Diegnau stated we still wouldn't be here if corn were at \$3.00.

Ringquist stated no.

Michael Johnson, Attorney for the Petitioners stated Mr. Ringquist I think you indicated that you're establishing ratios by using this value, is that correct?

Ringquist stated the costs are based on ratios. Our valuation is an appraisal as of a date specific.

Johnson stated and the purpose of doing that is to arrive at a sharing ratio for all the land is that correct?

Ringquist stated the purpose is to determine the financial feasibility of doing an Improvement as of the date of that valuation.

Johnson stated and in your opinion then is this project feasible as proposed under Option No. 4?

Ringquist stated yes, our analysis indicates that there are greater benefits than the cost of this project making it feasible.

Johnson stated, just one further question, the ultimate assessment of the costs is it not based on the value of the redetermination to one particular property as compared to the total in the whole system. Is that not the ratio?

Ringquist replied the assessment ratio would be the separable maintenance cost would be assessed based on the value of the existing system. The Improvement is based on the improvement of those properties that are improved from that increased capacity.

Johnson stated and I think that is a very excellent point so what that means is that in effect a million dollar repair, or \$960,000 whatever it is, would be assessed according to all the property owners based on the original repair of the original system.

Ringquist stated based on the redetermined values under the original system.

Johnson stated yes the redetermined values for the original system. So if we didn't do the Improvement and just did the repair to get it back to the way it was, we'd still have that \$960,000 approximate cost being assessed among all the landowners based on that redetermination.

Ringquist stated based on the redetermination of benefits, yes. That \$960,000 is included in the redetermination as to cost per parcel.

Johnson stated and that's just to get us to where we were 100 years ago.

Ringquist stated to bring the system back to as originally constructed.

Johnson stated right. And so the Improvement part, that's a separate assessment calculation based on the value of the Improvement to these lands. Is that correct?

Ringquist stated that's correct.

Johnson stated alright. And so the actual upgrading shall we say of the coefficient of drainage is then being shared in effect among those people that you have found to get the most benefit out of that improvement?

Ringquist stated the ratios are different between those that are being improved versus those ratios of the existing system. The biggest cost of the Improvement is born by those areas that now suffer the most damage because the system wasn't designed to provide that half inch capacity and it was probably designed for the highest and best use at that time as hay and pasture lands. Still all of the water left the system and went down the creek and they were able to go out and use it as hay and pasture. I think the big agricultural change came back in the 1960's where the philosophy was we're going to help farmers drain and make land more productive because we need to farm fence row to fence row across the nation to feed the world. Well once this had been converted to cropland generally nobody ever goes back and says well it just doesn't work as farmland anymore I'm going to put it back into hay and pasture. The assessor wouldn't believe that he'd say no it's been farmland and will continue to value it as farmland; it's a management decision and get set aside for a number of years was maybe why they went and started farming all of that. Once it became cropland all the valuation as cropland nobody was going to sell it as, well I've been farming it, but it's really pasture. So the biggest value difference is between areas that now drowned out, they will not drown out as often with improved drainage.

Johnson stated and as a result of that the land value will be greater?

Ringquist stated in my opinion the land value will be greater because of the quality of (inaudible).

Johnson stated and the land will produce more crops?

Ringquist stated yes that is the driving factor in this valuation.

Johnson stated and so that ultimately goes to the question of practicality and feasibility of the whole project to justify the cost of doing this. Is that correct?

Ringquist stated that is the purpose of the determination of the benefits is to show that they're not spending more than they are going to...they're not spending more than the value increase of those properties there that benefited by the Improvement.

Johnson stated and you've been doing this type of work for many years?

Ringquist stated thirty (years).

Johnson stated yes. And so you've seen many of these projects before then I take it?

Ringquist stated yes. I've been through many Improvements; but not all feasible.

Johnson stated okay, but your testimony is on this one this is definitely feasible and practical.

Ringquist stated as of today, yes, this is a practical and feasible project.

Johnson stated I would just like to make one comment to the Board and for analysis that this witness may not be aware of; but the Petitioners on the Improvement portion of this which I

asked Mr. Ringquist about would be bearing about 72% of the Improvement cost so the Petitioners are not being ignored as far as where that Improvement is going. It's being spread according to the redetermination of benefits but it is largely falling on the Petitioners. I just wanted to make that observation to the Board. Thank you.

Commissioner Schmidtke stated basically the cost is higher for those people on the northern part than it is in the southern part.

Ringquist stated what I would say Mr. Johnson has indicated that 70% of making this system bigger is born by these people in this area (on map) that have requested to make it bigger because it's not working. The rest is for the areas that come with the property that are on the fringes of the lower end that do not benefit as much because they currently have better drainage in these areas.

Rich Perrine stated I understand the benefits within the system will definitely improve the quality of that land. My question is does the statute require a look outside of the drainage area to see what the impacts are downstream in making the determination?

Ringquist stated when there is measurable or noted damage from the engineer we do account for downstream impacts. As his report indicated that in his opinion, hydrologically there was not a significant change. Without a measurable change the areas that currently flood will continue to flood. There was nothing that said the damages will increase downstream because of this. Like Mr. Brandel said and we asked him specifically about those changes, when considering in-line tile flows versus the excess overland flows and with most hydrology, so much of it is in the timing, and as you model this impact the creek, what you try to do is say what happened. All the water gets there now, no more water that falls within this area really is going to get there, other than the little bit that may evaporate. So all of the excess water from this watershed now goes down (inaudible). When does it happen and does that timing have an impact on flood impaired risk downstream. Mr. Brandel in his report said it was insignificant. He couldn't really measure. We can't say there's no change because everything changes but he said there was no measurable or significant change that we could consider for a value.

Perrine stated in your thirty years of experience all improvements cumulatively haven't increased the flooding downstream?

Ringquist stated I'm not saying that.

Perrine inquired is there dollar amounts assessed accordingly to reflect damages downstream now?

Ringquist stated the question I have is that at which point does that accumulation start? At 1900 when the system was put in, 1960's, or 1990's? His analysis said there was no significant downstream impact from this specific project. Accumulatively, yes we know there's more water going down the streams now than there was before settlement. Where that is today you end up measuring individual impacts of individual projects because so many of those projects you can't revert back and say but this one over here now has a 2" drainage coefficient because it was an

open ditch that was designed in the 1960's when nobody thought about that then. This is restricted back to a half inch. Stream stability I think is about a one inch run off from watershed will create stream stability. Now there's a lot of studies, a lot of stuff going on downstream I understand that, and there is a need for storage. At this point there is not funding to address those concerns.

Chad Diegnau stated so I'm just asking with your thirty years of experience are most of these public or county tiles that you encounter are most of them undersized for today's farming practices?

Ringquist stated most of the early 1900 drainage systems are undersized. Many of the 1950 improvement projects are oversized.

Chad Diegnau stated okay but would it be fair to say Martin County has more 1900 systems in place than 1950 systems?

Ringquist stated I wouldn't know that for sure. I know that most of the system areas were drained in the early 1900's. How many were improved or changed I don't know.

Chad Diegnau stated and the reason why I ask the question is for the Commissioners is that we can't keep going out to every undersized county public tile and increase the capacity two, three fold out there or we're going to have a real problem. And when you look when it comes to public health as being one of the criteria, you start doing that across the County we cannot farm every acre of land for floods and stuff like that. It's just not feasible. Then that hay ground and stuff was a natural holding spot for this land...we took it out of production so we helped create the problem downstream...our creeks and rivers are actually filling with sediments so they have less capacity as the years go by.

Ringquist stated stream channels are naturally widening and increasing their in-channel capacities because the stream banks are eroding. This wasn't my statement.

Chad Diegnau stated there are a lot of ifs, ands, and buts here.

Deter asked if there were any other questions or comments?

Mr. Chair one more time before we break, if there aren't any more comments or questions then we bring it back to the Board for their discussion and I'll be going through some options they have; but I just want to make sure that we have allowed enough time and maybe we have. Are there any other questions or comments?

Tom Maday, one of the Petitioners, stated I just think that Option No. 4 is the most practical and as Mike stated five petitioners on the Improvement are paying slightly over 72% so we haven't had adequate drainage, we continue to pay for the repairs and I just feel that for a system to be right everyone has to benefit from it. Thank you.

Chad Diegnau stated one more question if I can please. The redetermination of benefits for the folks of us that are on the south end of the line being me and my brother, Mark Craven, Bob

Kesselring, and Peppard there, we are on the outlet side of it. The County ditch is actually something that we could...it would be much more feasible for us to actually put in our own main to drain our acres and go without the County ditch that is currently in place. And especially at the cost of what we're looking at here. Is that an option to do so?

Deter stated, Mr. Chair I'll address this. Landowners always have the right to petition to abandon do a partial abandonment but I'll be honest with you it would be unusual to do a partial abandonment on the lower part of the system because the upper part relies on the lower part. But it is possible, yes, and at the same time petition for removal of property from the system because your water is not using the system. So to answer the question is it possible? Yes. Is it likely it would meet the statute? Possibly, but I've done this thirty-five years and I've never seen the bottom end of a system be abandoned. I'll just leave it at that. It's possible, statute allows for it; but it would be difficult. Now to the second question maybe I should say this. If there was a way that their land would not use the system because the statute allows that if you're going if you can get your water and not use the system they could petition to remove; but then they wouldn't be able to have any of their water go into the County's system.

Craig Diegnau stated well the pipe that comes through our property is solid, 36" and it's not even going to take any water; the proposed pipe. And then you're leaving the existing 16" tile through our land anyhow...we're gaining nothing. I do agree with Tom Maday they're paying 70 some percent of the benefit of it which is fine and hunky-dory; but you're expecting 30 some percent of the project to be paid for by the people that receive no benefit. None. We can talk about hay ground and all this and that but nobody has hay ground and whatever; but the fact of the matter is we're not going to be receiving a benefit. None. If you take that tile out and we put our own in which would be just as cost effective and we would control it; you know which is what we'd rather do, you know, that would be better to us.

Commissioner Pierce stated if I may, where would you run your tile to?

Craig Diegnau stated to the creek...same place.

Commissioner Pierce stated I'm not following that.

Schmidtke stated because they're close to the creek and the rest aren't, so they (Diegnau's) could.

Craig Diegnau stated correct the new tile coming through is not going to take any water off our land; it's not even corrugated, correct? It's not perforated I mean.

Deter stated again, all this is possible. It's not part of today's decision; but I was trying to answer his question, it was a legitimate question; but it is not part of your decision today to Order him yes or no to what he wants to do with the land. They've had excellent questions.

Commissioner Schmidtke inquired but what happens then if this goes through as recommended and then everything is assessed the way it is; but then they are able to get off this by petitioning off.

Deter stated if this went through they would pay it's kind of a snapshot in time. The most they could...to remove their property would be to get out of future repairs on this system. It would not get them out of if you approve this project of the current assessment.

Johnson, Attorney for the Petitioners, stated I just wanted to offer an observation. I'm sure the County Board is probably well aware of what I'm about to say. But you know we've got drainage law that's been around for a hundred years that has served our rural communities very well by enabling systems to be developed, repaired, improved, and even new systems and all for a good purpose as the statues set up this framework in order to accomplish these goals. And it's not to satisfy every individual property owner to a large extent it's for the common good of everybody in this whether it's the public health of this County, this country, to feed the world, to provide for the economic viability of the farming operation. So you know we have a system to follow. We have Viewers that you appointed that are very expert in doing this. Your engineer who has done an excellent job of coming up with an alternative that makes a lot of sense to get the most bang for the buck. So here we are with modern agriculture with a system that is not a popularity contest, it's a statutory proceeding and the Board's job is to make findings and to see that the engineers did their job, the viewers did their job, it's out of repair, it's feasible, it's practical, and from the petitioners standpoint that's the end of the story. You know we're sympathetic to all those other issues but that's for future legislators, future policy makers to change the system. That isn't what we have. We have what we have right now and that's what we have to do is follow the law as it currently exists. Thank you for your attention.

Commissioner Schmidtke stated we don't get to set here and say yes it is a good idea or no it isn't a good idea. As long as these requirements are met we have to say yes because we're upheld by law. We're just hearing all of the information so we know what to do.

Diegnau stated, so this system being out of repair is what keeps being brought back. So on these county ditches that are strewn throughout the county when there's a blow out and intake that's washed in and stuff like that, it's a hundred year old tile, we go out and repair sometimes 200 foot of that to get it back up and running...wouldn't it be more feasible since it is out of repair because of its age just to replace the whole system everyplace that we run into those scenarios?

Commissioner Belgard stated I think maybe we are, aren't we Kurt (Deter)? I mean it's becoming more common.

Deter stated and I'll go into that when we get into Separable Maintenance here. But if you had one blow out in my opinion would that make Separable Maintenance? No. The issue is and I'll go through that what out of repair means because it is going to be one of the main issues you're going to have to decide. But I think he asked a good question if there was one blow out would that justify that the system is out of repair? No, not in my option. But that's why I'll go through what I believe the standard is. There is a point of how many Band-Aids. There's no finite number, but the question was, you had a system that was in great shape and you had one blow out would that be out of repair? Not in my opinion.

Deb Mosloski stated Kurt, and I'm not sure if I understand his question, but each system is owned by the taxpayers so in this particular case over 26% have decided they need this done. So the other systems also have that...

Deter stated this Board doesn't have the authority. All you can do is repair. You don't have the authority to do an Improvement without the petition coming from the assessed landowners. Any other questions before we bring it back to the Board?

Commissioner Potter stated about petitioning to get off the system...I think you said if it was approved today they were going to have to pay their cost regardless. If they can petition to not be hooked into the system later on and not pay for any repairs but they'd still be...

Deter stated they seem like very good businessmen. They seem like very good agri-businesspeople. You wouldn't do that. I mean you wouldn't pay for this system as your outlet and have paid for it because it is not going to need repair for our lifetimes or a long time and then put in your own...well I can't say what they're going to do; but from a purely economic you wouldn't do that. Any other questions? If not, Mr. Chair, then I think we should close the oral portion if there's a motion to that affect and then I'll start going through the statute.

With no further public input,

Motion by Commissioner Belgard, seconded by Commissioner Potter, to close the Public Portion of the Continuation Final Hearing on Amended Engineers Report and Viewer's Report for the Redetermination of Benefits of JD #40. Carried unanimously.

Deter continued if it is alright with the members of the Board as I told you in writing before I'm not a proponent or an opponent of this project. My responsibility is to...the statute is very jurisdictional as to go step by step through it because whatever you decide is appealable within 30 days. In this particular case if you look at the agenda, a main issue is whether Separable Maintenance applies. And Separable Maintenance under the statute says if the existing drainage system needs repair and the Petition for the Improvement is for a separable part of the existing drainage system the engineer may include in the Detailed Survey Report a statement showing the proportionate estimated cost of the proposed drainage Improvement required to repair the separable part of the existing system, and the estimated proportionate cost of the added work required for the Improvement. And Mr. Brandel testified I believe that it was \$900 and some thousand for the repair and \$300 and some thousand for the estimated proportionate cost for that Improvement. Separable Maintenance comes up all over the state. It is part of every project; and the issue we're trying to get through the Drainage Workgroup, in fact I'll read a proposed language change; but if you look in the next paragraph so it's out of repair. What does repair mean? Repair under the statute means to restore all or part of the drainage system as nearly as practicable to the same condition as originally constructed and subsequently improved to restore the effectiveness of the drainage system and maintain the efficiency of the drainage system. As part of that and it will be in this session's legislation, and I brought it along, that line about restore all or part of the drainage system as nearly as practicable to the same condition...the Drainage Workgroup condition really isn't the important...and we're changing that language to say back to the same hydraulic capacity. Deter stated and so your decision today on whether

Separable Maintenance applies as you've heard the testimony, that's the part I don't do is tell you what to decide. If you decide that it is out of repair and Separable Maintenance applies and it meets that requirement then there would need to be a motion to approve Separable Maintenance on this project. It doesn't still approve the project; but this project as proposed cannot go forward without Separable Maintenance, the benefits, it just can't go forward. The one thing I should go back and say is you also aren't forced to make a determination today. You always have the right if you think you want more information to continue it. I'm not saying yes or no to do that...it's your call whether you need more information. I should say you're not forced to make a decision today if you wanted more information. So the first issue is to decide are you ready to make a decision on that today or this project today and if you are do you find the system out of repair so that Separable Maintenance applies?

Commissioner Belgard stated the engineer we hired to explore that fact tells us it is, right?

Deter stated correct.

Commissioner Belgard stated doesn't that answer that question then?

Deter stated it certainly goes a long way I mean it's not like he's God and gets to say that. But I mean if he said that and yet ten engineer's say the other way, it doesn't mean...I don't want to be facetious about it...it carries a lot of weight; but it isn't no matter what he says if you found evidence that it wasn't out of repair you certainly don't have to follow him. But it certainly is a strong piece of evidence, very strong.

Commissioner Belgard stated obviously none of us understand it as well as he does. That's why we hired him to do it.

Deter stated correct. So it would bear a lot of weight unless you heard testimony that overrode what he says.

Commissioner Pierce commented I'm still trying to get down to that part. I think everybody is in agreement that a brand new system is going to work great, no problems; everybody is going to be happy. I think everybody is also in agreement that the system as it is doesn't work anywhere near what it did when it was built. I don't think anybody has a problem with that. But, is this system constantly being dug up because it's plugged, broken, blow outs?

Deb Mosloski stated when it rains.

Commissioner Pierce stated I mean I don't know how much money is being spent on an average basis.

Deb Mosloski stated one year we spent over \$40,000 on small repairs through the Findley land. Yes, there's been money spent over the years.

Commissioner Pierce stated yes, I know there's been some...what I'm trying to get is some sense...we know this system is going to work much better, we know this system could work

better if it was new. But is it in fact broke? I don't consider that broke. I consider that it don't work anywhere near like it should. I don't know where to make that determination.

Deter stated again I'm always trying to go back to statute...if you say it's out of repair because it doesn't meet the hydraulic capacity which will be the new language and improved to restore the effectiveness of the drainage system and maintain the efficiency of the system. Right or wrong Mr. Brandel testified that the system is 30 or 40% less efficient than even when it was put in. That seems to come under the language of the statute. Again, I wish the statute said 23%. Because if Chuck was in here saying it's 2% less, then again that's a judgment call on your part.

Commissioner Pierce noted, and kind of the other part of that you know excellent discussion about just how much water can we push in downstream. But isn't it a matter of fact that the system as it is or new everybody keeps putting a little more tile into it? Connecting more to it? Is that a safe statement?

Deter stated sure. The way agriculture is going right now I think you'd have to be blind and not know how much tile is going in not only here, throughout Minnesota, throughout eastern South Dakota, it's everywhere.

Commissioner Pierce stated the significance of that I think...what I'm getting at is if I look at any one of you out there you're saying you know I'd like to tile but I'm not going to because I know the system can't handle it. But the fact of the matter is everybody just keeps putting more tile into it.

Deter stated that's right.

Commissioner Pierce noted okay. That helps me out a little bit.

Deter noted going back and we'll try to do this systematically and we'll get to some of those questions. The question in front of you now that I would need an answer to is a motion one way or the other that Separable Maintenance applies because this system is out of repair; out of repair meaning it isn't as efficient and it has some level of reduced efficiency that it is no longer serving its original efficiency.

Commissioner Potter asked for an explanation of Separable Maintenance.

Deter explained Separable Maintenance means that if all we were going to do is repair this system then the \$900 and some thousand dollars would be spread over everybody in the system under, I believe, the Redetermination of Benefits. By adding the Improvement, it's adding another \$300 and some thousand dollars in cost. That \$300,000 of cost should only be paid for by those who benefit from the increased size. Because you have the same...a lot of the same costs whether you put in a 16" or a 36"...it's the difference in cost between the 16" and 36" which you do a lot of the same trenching; it's mainly the cost of increased size (of the tile).

Commissioner Pierce inquired could someone help me out I didn't really find it on here. I know that the folks on the upper end are paying a lot more. What is it per acre from the high cost to the low cost on this system? I know I could do some math, but...

Ringquist stated I haven't broken it down by cost per acre or anything like that. Commissioner Pierce inquired roughly \$12.50 on the full system?

Deter noted if you did it by watershed acre basis but it's not...you have A, B, and C lands so kind of a nice way to do it is divide it up by the number of acres. But it really doesn't work exactly that way because some acres pay more because they get more benefit. They were the wettest land at one time.

Commissioner Pierce inquired so if we do Separable Maintenance or Improvement is the ratio the same for everybody?

Deter replied no, the ratio is different under the Separable Maintenance than it is the Improvement. The Improvement is weighted toward those who benefit from the system and from what I'm hearing the upper end needs it more than the lower end and so they're paying more.

Ringquist noted if you look..."A" lands being the lowest lands that need the drainage the most from natural state is the farmland. The existing system is only providing 35% of the potential value added by a system that meets the 1" design criteria. The Improvement of that through options means it's going to get...the "A" land value of the \$5,500 is going to increase by 55% of that \$5,500; whereas "B" lands or the "C" lands which is the upper lands currently they're getting 80% of their benefit – they're only adding 20%. So, can we do it on a per acre...the outlet capacity problem is only going to add 10-20% to those lands that now force their water into that tile. Those that have that tile on the bottom that are receiving all that water and can't get rid of it right now are valued at hay and pasture even though they're farming and they're going to go to good farmland. So they receive two times more benefit by the Improvement than they get now as hay and pasture. Whereas the upland have almost all of their benefit already because they're the ones that are forcing the water into the tile so that it doesn't work for the bottom half.

Deter stated if you think of the overall thing it does get very confusing. The issue is we systematically go through it in front of you right now. Is there a Motion that it is out of repair and Separable Maintenance applies and we'll see if it passes? If it doesn't pass...

Commissioner Schmidtke stated I still have a problem with it. I thought I knew this stuff but Separable Maintenance...if we approve Separable Maintenance that means that the people up on the top portion will be paying more?

Deter stated no. If you do Separable Maintenance...that will be based on the Redetermination of Benefits. Whatever benefits they found out there in its current condition.

Commissioner Belgard stated if we do Separable Maintenance, if we pass that, and then later don't find to do the Improvement, do we improve it to what it was or do we...

Deter stated Separable Maintenance kind of becomes a moot point if you don't do the project. The Separable Maintenance is just how do you proportionately split the \$1.2 million dollars is basically what it's for.

Brandel stated if I could add and maybe try to explain it...because on the upper end of the watershed, and correct me if I'm wrong, there's more "A" land so either way they're going to pay a higher percentage.

Ringquist noted because their current value of that "A" land because it doesn't work is not that great. It went from non-valued wetlands to reasonable hay and pasture land. If all you do is repair the system that's out there...all those areas that drowned out are based on \$1,500 per acre value increase because they're going to continue to drown out. If you Improve them they go up to \$4,500 an acre benefit combined. The increase of \$3,000 goes to pay for that increased size.

Commissioner Potter stated that is the Separable Maintenance...

Ringquist stated no.

Deter stated let's go back. We'll get into that in the project if you think the Viewer's Report is correct. The first question is the existing system out of repair? That's as simple as I can make it. Is it not as efficient, does it have enough less hydraulic capacity that you believe that it's out of repair; and you asked the question, you've heard the testimony...it's going to sound like I'm a proponent; but if you decide the other way I'll defend that too. But you heard testimony that it is 30% to 40% less hydraulic capacity that the joints are out of whatever; it's a hundred years old. It doesn't mean it doesn't still carry water; but how does it compare to what it was when it was first put in. Is it out of repair from what its original efficiency was?

Commissioner Pierce noted I think like I mentioned before, nobody argues that in this entire room.

Deter stated well let's get past that question.

Commissioner Pierce stated okay and I'd be glad to make that motion; but as I understand the proceedings once we make that motion to pass it we walk out of this room we've just committed you gentlemen and ladies to spend \$960,000 to fix it.

Deter stated no. If you don't do the project it doesn't mean you have to do the repair. If the people say no we want to keep a 1910 system that's 60%...anyway to answer your question, no. By answering the question is it out of repair are you committing yourself to spend \$960,000? No.

Commissioner Potter asked then what are we doing if we make that motion?

Deter noted determining what proportionate share of the cost if this project is approved will be repair cost versus improvement cost. The Separable Maintenance just divides the cost up. Let me keep going here. The issue is the engineer has said that under an Improvement you're allowed to use Separable Maintenance if the engineer determines that the existing system is out of repair which means that \$900 and some thousand dollars will be spread over everybody under the system that's in there now but bringing it up to Redetermination values. So people will pay for this repair based on the Redetermination of Benefits. Then, the additional \$300 and some thousand dollars will be paid for under the Improvement report who benefits from this Improvement. But to get the Separable Maintenance whether it even applies you have to make a decision yes or no is the system out of repair.

Commissioner Schmidtke stated I think obviously part of the system up at the top is out of repair; but the bottom half it probably works great. We never took a camera down into the bottom portion so we don't know...those pipe don't really look too bad.

Deter stated and I'm not trying to delay anything. That goes back to the authority that you have. If you think...you've heard the hydraulic analysis is 30-40%. But if you think you'd like to see some camera work in another part of the system to make sure that system has dirt in it and things out of alignment and again. You have to feel comfortable with your decision whatever time you're going to make it.

Brandel stated the decision on Separable Maintenance doesn't mean you're repairing it. I just want to make that clear.

Deter stated once you approve the project it's going to go regardless what the bids are unless the bids are higher than what the statute allows.

Commissioner Belgard stated but we could approve Separable Maintenance and still not approve the Improvement.

Deter stated if you didn't think the other issue...this is the first step, right.

Commissioner Belgard stated but we're not spending \$900,000 if we would pass the Separable Maintenance.

Deter noted absolutely not. It's just one of the steps in an Improvement proceedings if you want to use Separable Maintenance to split up the proportionate costs. You can only do that if you make a specific finding that the system is out of repair.

Commissioner Schmidtke commented I guess I don't know what percentage of the system is out of repair.

Deter went on to note you're not obligated...you could decide that we don't think \$900 and some thousand is out of repair. We think \$750,000 is out of repair which then means a more proportionate cost would go to the Improvement...paid for by the...but again I'm not trying to get you into horse trading because all I want to know now is do you want to make a finding that

the system is out of repair, do you want to not make that finding, or do you think you need more evidence to make that finding? That's the three options you have on that particular issue today.

Commissioner Schmidtke stated a certain portion of this system is out of repair. But I'm not convinced 100% of it is. That's my problem. Is 10% of it out of working order or is 80% of it out of working order. Before I spend a million bucks I want to know if 10% isn't working or is it 80%. There's a difference. You can't go in one hole and they can say it is so dirty I can't get a camera through and then not go down the sections to see where it stops. That makes a difference.

Commissioner Pierce asked so we're thinking more camera work? I know this is new information to a lot of people but did everybody get this on the system? We have new figures than we did last time...new benefits.

Deter stated you're the Drainage Authority. I'm giving you the statute, the engineer gives you their opinion on whatever evidence they have and Chuck said what evidence he had at what locations. The Viewers gave you their report. But you're still the decision maker. Going back the first question is, because we don't even get into all of these other things, is the system out of repair? Do you need more information? Do you want to make a decision on that Yes or do you want to make a decision No. Those three things: more information or make a decision Yes or No.

Commissioner Schmidtke stated I need more information.

Commissioner Belgard inquired what would be that information?

Deter stated more review and analysis of what condition...again...we're not going to film the entire tile probably; but you know again I would want the engineer to say hey if I do four or five different spots or ten different spots I'd feel very comfortable in saying what percentages are out of repair.

Commissioner Schmidtke stated that's what I need just a couple more spots to tell me if it is out of repair...

Commissioner Belgard noted well I think it's more important that we get it right than we get it done fast.

Commissioner Schmidtke agreed right. We're not going to dig this next month anyway so it's not like we're in a hurry to finish this so workers can get out there. I want to know how much of this is out of repair.

Deter stated I've been on both sides. If you're the Petitioner you want it decided yesterday. The opposer wants it decided ten years from now and I've been on both sides. But I think somebody said it the right way...whatever you feel comfortable that if it gets appealed and I call you to the stand you can defend what you decided. That's all I care about.

Unidentified person: I've got something I'd like to add. Maybe everybody knows about it...there's a (inaudible) on the south side of County Road 38 by the Maday farm that used to be Chad's farm...well after a good rain the water boils up out of that for three or four days. It's done that for years and it did it again this year so it's got pretty good pull that far.

Commissioner Pierce commented repair or not repair. If we say it doesn't need repair and come back and still approved does that mean a difference in what the cost is?

Deter stated if you decide Separable Maintenance does not apply and you've got the Improvement is going to do \$560,000 benefits and the project is going to cost \$1.2 million the project doesn't go. The benefits have to exceed...

Commissioner Pierce continued if we say it doesn't need repair is it dead in the water?

Deter noted, well we'll go through that, but you'll make a decision the benefits don't exceed the cost; but there is something fair about Separable Maintenance I don't want you to think there isn't because the people asking for the Improvement and benefit from the Improvement shouldn't have to pay all the costs of getting the system back to what it should be. So there's a reason Separable Maintenance is in there.

Commissioner Belgard noted it's not going to go away if we walk away from it today.

Deter commented no. In my opinion if you do nothing the system is going to need repair at some point. I can't say if it is tomorrow or twenty years from now or twenty years from now or ten years or five years they'll be back in with another Improvement Petition the way that agriculture is going. Let's go back to the original question. You have three options: it's out of repair, it's not out of repair, or I want more information. That's all the options I'm going to give you. If you decide you want more information we need to discuss today very specifically what you're directing the engineer to do so that he doesn't have a blank sheet. Do you want it at certain locations...what do you want from him so that when we get back together you have the information you need and maybe Chuck (Brandel) can say in order to answer these questions this is what I need to do.

Commissioner Pierce stated I think there are three things from the way I see it. One is figure out where to take more pictures and all that. Two is I'm looking at these gentlemen here that really want to have some concept of what the cost per acre is depending on what we do. I think that is very important. And three, I really don't understand I need this flow chart if we do this, then what.

Deter noted I can get that. Unintended consequence is the worst thing that can happen. But going back to the first question before we get into what Ron (Ringquist) can explain here. The first question still is, is the system out of repair. If you don't think you have enough information what do you want Chuck (Brandel) to provide to you?

Commissioner Schmidtke noted personally I want more information. This picture that we have today was taken roughly right about here (on map) and I'd like to know someplace between here and here we need a few more points along here that is it still plugged? Is it plugged down here?

It seems to be working fine. Someplace along between here and here how much of it is really plugged and out of working order. That's what I want to know.

Brandel stated I guess I would recommend if you're going to look at it more if you really want to see it maybe three more spots just to be practical and the reason I'm looking at that is the camera can't get around corners.

Deter stated let's get the three or four spots and again somebody made the very good comment...you're looking at the system. We're not in my opinion going to have argument well here's a tile section that's in good shape. It's like your car you know a lot of your car can work but if some of it doesn't means the car isn't working right so.

Commissioner Potter stated I would just like to add for the benefit of the Petitioners and those that are opposed to this project that every commissioner has said we've got to get it right and they've said that a dozen times and I'll repeat it again. They want to get it right...so depend on that, that it will be done right.

Deter asked Chuck (Brandel) or Mike (Forstner) when? I don't know anything about cameras or time of year. When can you do that?

Brandel stated if we had a contractor today we could do it in 48 hours. You've got to call the Gopher One call. The contractors are probably not as busy right now. If we get real cold we could have an issue with equipment.

Deter stated I'm just thinking how quickly we can do it in fairness to the Petitioners and maybe some of the opponent's people do leave the state this time of year so I want to...could we have it by January 2nd? If we're willing to re-notice we don't have to pick a date today. We only continue it so that we don't have to send out new notices. This isn't that big a system maybe we're better off when they have the report because we're going to remind people anyway we might as well send out a new notice. If you want to pick a date we can continue it and if we're ready at that time...

After further discussion,

Motion by Commissioner Pierce, seconded by Commissioner Belgard, 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 January 15, 2013 at 10:00 a.m. in the Commissioners Board Room to review County camera video of three additional areas of the current JD #40 tile system; review Viewers listing of landowner parcel costs; and to review Engineer's amended report for a proposed Improvement of JD #40. Carried unanimously.

Chairman Donnelly opened the public hearing on the Redetermination of Benefits for Judicial Ditch #40.

Deter stated, the two reasons you do a Redetermination are to bring land values up to current day standards and make sure all the land is in the system regardless of an Improvement. So you've

asked the Viewers with the system that's out there to do a Redetermination of Benefits. They've done that, they gave the report last time, I think that Ron (Ringquist) should get up and if there's questions on it he can quickly go through it and then you can decide whether you have enough information or whether you want to approve...just like you've done probably a hundred other Redeterminations in this County.

Ron Ringquist, Viewer, stated yes as Mr. Deter stated we did the Redetermination I tried to explain that process before. Changes that we've made as far as the Redetermination are the same ones I tried to explain. These parcels on the far northwest corner we've now removed from Redetermination of Benefits as it has been submitted to keep in conjunction with this Option No. 4. The other part was that because the original report was calculated in April, 2012 and those values were applied when we submitted the first report in August, we now have a report dated December 11th, 2012 that has used the valuations from farm sales and commodities as of this fall. And so our recommendation is then that you use the newer values which are the same calculations as were on this Option No. 4 cover letter and apply those to reflect current dollar values as of the fall of 2012. With those considerations then the existing system, assuming it is in a reasonable state of repair, has full benefits of \$1,485,939.23 of net benefits from the existing system as it exists today assuming it is in a reasonable state of repair. So we've updated the values from the last hearing from last spring, removed the properties on the northwest corner, otherwise the report is exactly the same.

With no further staff report, Chairman Donnelly opened the public hearing on the Viewers Report for the Redetermination of Benefits of JD #40.

Commissioner Belgard stated Craig (Diegnau) was talking about \$3.00 corn versus \$5.50 corn; we were talking about ratios before; so if we accept this Redetermination and land values go back down to \$6,000 per acre and corn goes down to \$3.00 an acre it's a little out of date; but the ratio would basically stay the same.

Ringquist stated the ratio would not change other than the possibility of a little difference between the land values and the road benefits because those are two different...road costs do not change the same as land values. So when we raise the farmland value in consultation with the county engineers, say that our construction costs and our values haven't changed, it shifted it a 10th of a percent, more to the Ag lands than to the roads. But if the Ag land went down and the roads stayed the same, then more would shift to the roads as another Redetermination; but it is as of a point in time and just like with all real estate, houses go up (in cost) and houses go down (in cost). The value is whatever date you appraise or value that property. But the ratios basically are the same whether its \$6,000 an acre land or \$10,000 an acre land.

Deter noted the land values and crop costs...if your 40 pays 4% of the benefits as of when you approve this...corn going up or down or land values going up or down doesn't affect it.

Commissioner Pierce commented we pass this, some individuals petition to get out of the system because we might have this Improvement coming, so they get out, now we do the Improvement, we got Redetermined, are these folks stuck by passing it today? What happens?

Deter stated you can always if you approve the Redetermination of Benefits we don't know what will happen in the next ten years. People can petition in, petition out, we can't anticipate or do any decision based on that. Right now everybody's in, everybody's using the system, they've done a Redetermination of Benefits and once we've heard the public comments, I'll go through the three things you have to decide to approve this or not approve this.

Commissioner Pierce stated so those folks that petition to get out now or in the future they're stuck if you will unless we go through a new Redetermination.

Deter stated no. You don't have to do a Redetermination to remove somebody from the system.

Commissioner Pierce stated I'm talking about what you assess.

Ringquist noted once removed they wouldn't be assessed.

Commissioner Pierce went on then we'd have to Redetermine.

Deter stated no. Just everybody's percentage goes up a little bit; but you don't have to do a Redetermination.

Ringquist stated the only costs that I see associated with this Redetermination are the costs of the procedure to do the Redetermination.

Pierce noted okay we're in the process right now where we're open for public comment. Does anybody have any issues?

Deter continued if not, Mr. Chair, if somebody makes a motion to close the public portion.

With no further public input,

Motion by Commissioner Pierce, seconded by Commissioner Potter, to close the public portion of the continuation hearing. Carried unanimously.

Deter stated then Mr. Chair and Board members, you'll see on the bottom of the agenda under MN Statutes 351 which is the Redetermination of Benefits statute in order to approve it you have to make these three findings: (1) The Viewers Report has been made and other proceedings have been completed under Minnesota Statutes 103E; (2) The Viewers Report as to the Redetermination of Benefits is complete and correct; and (3) The damages and benefits have been properly determined. If you make those three findings in a Motion then the Redetermination is approved...I'll put it in Findings and Order, it gets filed in the Ditch File if anybody wants to appeal it they have thirty days from when it's filed in the Ditch File.

Motion by Commissioner Potter, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby approve the Viewers Reports for the Redetermination of Benefits and Damages and Benefited areas of JD #40 as the Viewers Report has been made and other proceedings have been

completed under Minnesota Statutes 103E; the Viewer's Report as to the Redetermination of Benefits is complete and correct; and the damages and benefits have been properly determined. Carried unanimously.

Deter concluded I will get a Findings and Order down for the Chairperson's signature. I think this will take care of this one and you can adjourn the Redetermination...so when we meet on January 15th it will be just on the project.

Motion by Commissioner Belgard, seconded by Commissioner Schmidtke, to close the continuation hearing for the Redetermination of Benefits of JD #40. Carried unanimously.

Motion by Schmidtke, seconded by Commissioner Potter, to recess the meeting at 12:00 p.m.

The Board reconvened at 12:28 p.m.

The Board conducted the Coordinator's performance evaluation.

With no further business to wit, Board Chair adjourned the meeting at 12:51 p.m.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Steve Donnelly, Board Chair

ATTEST: _____
Scott Higgins, Coordinator