

PROCEEDINGS OF THE  
MARTIN COUNTY BOARD OF COMMISSIONERS  
TUESDAY, JANUARY 15, 2013  
@ 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 Elliot Belgard.

Commissioners present were Steve Flohrs, Dan Schmidtke, Steve Pierce, Steve Donnelly, and Elliot Belgard. Also present were Scott Higgins, Martin County Coordinator, James Forshee, Martin County Auditor/Treasurer, Kevin Peyman, Martin County Highway Engineer, Terry Viesselman, Martin County Attorney, Jennifer Brookens, Sentinel Newspaper, Rod Halvorsen, KSUM/KFMC Radio, Debbie Neitzke, Truman Tribune, Julie Walters, Administrative Assistant, and members of staff and public.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda with the following: Add 8.8 Reconsider Construction Bids for Security Building Remodel Project; 8.9 Consider Final Award Salvage and Grade – Highway Department; and Delete 3.1 Review Minutes of January 2, 2013 regular Board of Commissioners meeting. Carried unanimously.

Terry Viesselman, Martin County Attorney, presented an update relating to the County's purchase of property located at 117 North Main in Fairmont.

Viesselman reviewed his previous request for increased annual salaries for Assistant County Attorney Peter Odgren and Assistant County Attorney Mike Trushenski. Viesselman stated he met with the Compensation Advisory Committee with his request for an increased wage adjustment. Viesselman went on to state based on comparisons of Assistant County Attorney positions to counties similar in size to Martin County; county staff is on the low end. Viesselman recommends increasing Peter Odgren's 2013 salary from \$48,658.45 to \$55,000.00 Annual Salary and recommends increasing Mike Trushenski's 2013 salary from \$63,556.90 to \$67,215.35 Annual Salary.

Chairman Belgard stated the Compensation Advisory Committee met and agreed the Assistant County Attorney salaries were low and that it would be an \$11,491 county attorney salary budget increase for salary adjustments.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly, Be it Resolved that the Martin County Board of Commissioners, after review and recommendation by the County Compensation Advisory Committee, and after reviewing the salaries of the Assistant County Attorney's position with other benchmark counties, determined the overall salaries to be below the benchmark counties; hereby approve to increase the County Attorney's budget by \$11,491 for CY2013 for salary adjustments for Assistant County Attorney Peter Odgren to \$55,000.00 and Assistant County Attorney Mike Trushenski to \$67,215.35 effective January 1, 2013. Carried unanimously.

Scott Higgins, Martin County Coordinator, stated that Layne Ebling is willing and has agreed to serve an additional term on the Martin County Water Plan Advisory Committee. Higgins continued Doug Hilgendorf is not interested in serving an additional term on the Martin County Water Plan Advisory Committee and will need to replace the small business representative to the committee; and Max Longley has not responded if he is willing to serve an additional term. Higgins noted the Martin County Parks/Trail Committee has an At-Large appointment open and should be filled by early spring.

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve the reappointment of Layne Ebling, representing Agriculture, to serve an additional term on the Martin County Water Plan Committee with term ending December 31, 2015. Carried unanimously.

Kevin Peyman, Martin County Highway Engineer, reported on final contract for SAP 046-638-013 CSAH 38 Salvage and Grade. Peyman stated that final examination has been made, work has been completed, and the entire amount of work has been performed. Peyman recommends approval of the final contract with Mathiowetz Construction Company of Sleepy Eye, MN in the amount of \$1,798,275.94. Peyman noted Martin County will receive 100% reimbursement from the State Aid Construction Account.

Motion by Commissioner Pierce, seconded by Commissioner Flohrs, Be it Resolved that the Martin County Board of Commissioners, upon the recommendation of Kevin Peyman, County Engineer, hereby approve the final contract payment for SAP 046-638-013 CSAH 38 Salvage and Grade with Mathiowetz Construction Company of Sleepy Eye, Minnesota in the amount of \$1,798,275.94. Carried unanimously.

Jeff Markquart, Martin County Sheriff, presented an office update stating the Sheriff's Office met the ARMER Radio compliance requirements and was fully functional by the end of 2012. Markquart noted the Sheriff's Office is continuing to schedule installation of the radios and that it is expected to be an additional month before the mobile units are installed in fire trucks and are currently using Martin County radios for interoperability. Markquart went on to note that there has been no new word received about the AFG grant.

Markquart continued stating the current Martin County Jail population is 19 or 20 in-house and 15 out of county (Faribault & Nobles Counties).

Higgins stated that due to legalities of accepting the local bid received from United Builders, Inc. of Blue Earth, Minnesota (total bid difference including Alternate #1 of \$900.00) for the Security Building Remodel Project, it has been recommended to award low bid to J.S. Cates Construction Co. of Hamel, MN in the amount of \$91,000 plus Alternate #1 in the amount of \$3,000.00.

After discussion,

Motion by Commissioner Flohrs, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby award the low bid received for the Security Building Remodel Project to J.S. Cates Construction Co. of Hamel, Minnesota in the amount of

\$91,000.00 plus Alternate #1 (tile and carpet) in the amount of \$3,000.00 with an anticipated completion of eight (8) weeks; and authorize the Chair and County Staff to sign and execute the necessary documents for the listed project. Carried unanimously.

Doug Landsteiner, Martin County VSO, was present to request out of state travel for two separate conferences in 2013 including the Disabled American Veterans (DAV) Mid-Winter Conference in Washington, DC February 24-26, 2013 with the Minnesota DAV covering \$300 of air travel expense and local DAV chapter covering hotel room expense. Landsteiner requests reimbursement for round trip mileage to Minneapolis/St. Paul Airport, air fare expense in excess of \$300 and the standard daily meal expenses; and the National Association of County Veteran Service Officers (NACVSO) Training Conference in Reno, Nevada June 2-7, 2013 with estimated expenses for lodging of \$632, meals of \$240, air fare of \$500 and round trip mileage expense to the Minneapolis/St. Paul Airport of \$168 for an estimated total of \$1,542.00. Landsteiner noted attendance to the NACVSO Training Conference has been included in the approved 2013 CVSO budget.

Motion by Commissioner Pierce, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the out of state travel request for Doug Landsteiner to travel to Washington, DC in February, 2013 for the Disabled American Veterans (DAV) Conference, Whereas the DAV Chapter is covering up to \$300 in air travel and hotel room expenses, and to approve payment for mileage to and from the Minneapolis/St. Paul Airport, airfare in excess of \$300, and the standard daily meal allowance; and to approve the out of state travel to Reno, Nevada in June, 2013 for the National Association of County Veteran Service Officers (NACVSO) Training Conference and includes transportation, registration, meals, and lodging expenses not to exceed \$1,542.00. Carried unanimously.

James Forshee, Martin County Auditor/Treasurer, stated Martin County has received an understanding of services agreement from the State of Minnesota Office of the State Auditor, stating they will audit the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of Martin County for the year ended December 31, 2012. Forshee noted fees are based on standard hourly rates plus travel and any out-of-pocket expenses.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Be it Resolved that the Martin County Board of Commissioners, hereby approve and authorize Board Chair and Auditor/Treasurer, to sign the letter of Understanding of Services Agreement for audit services by the State of Minnesota Office of the State Auditor for the year ended December 31, 2012. Carried unanimously.

Higgins stated MRCI Janitorial Services is proposing to renew their janitorial services contract for one year (2013) that includes a 2% increase. Higgins noted that MRCI did not increase their janitorial services fees in 2012 or 2011.

Motion by Commissioner Flohrs, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Board Chair to sign

agreement with MRCI (Fairmont) for janitorial services for the effective term of January, 2013 to December 31, 2013 for the following facilities: Human Resource Building (Human Services) from \$1,486.14 to \$1,515.86 per month (2% increase of \$23.46/month); Courthouse/Security Building from \$1,173.00 to \$1,196.46 per month (2% increase of \$23.46/month); Library from \$636.48 to \$649.21 per month (2% increase of \$12.73/month); and Law Enforcement Center from \$312.00 to \$318.24 per month (2% increase of \$6.24/month). Carried unanimously.

Higgins noted that Dan Whitman is the current representative on Martin County's Beyond the Yellow Ribbon (BTYR) Committee. However, he is transitioning off the board. Higgins went on to note that after an internal staff search, Kendra Van Beusekom, 4-H Program Coordinator for Martin County, is willing to take Whitman's place on the Committee. Additionally, the Board is being asked to appoint one of its members to the Martin County Beyond the Yellow Ribbon (BTYR) Committee. Higgins stated Commissioner Flohrs is willing to serve and be the Board's representative on the committee.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be it Resolved that the Martin County Board of Commissioners, hereby approve the appointment of Kendra Van Beusekom, 4-H Program Coordinator for Martin County, as the county staff representative to Martin County's Beyond the Yellow Ribbon Committee; and in addition, approve the appointment of Commissioner Steve Flohrs as the Martin County Boards representative to serve on Martin County's Beyond the Yellow Ribbon Committee as a Standing Committee of the County Board, effective January 1, 2013. Carried unanimously.

Forshee stated the Auditor/Treasurer's Drainage Administration Office has received a Petition for an Improvement of CD #29 and recommends acceptance of said Petition; and recommends the appointment of Chuck Brandel, engineer with I&S Group, as engineer for the proposed Improvement Project.

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be it Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby accept the Petition for an Improvement of CD #29; and appoint Chuck Brandel with I&S Group as engineer for the proposed Improvement Project. Carried unanimously.

Forshee continued the Auditor/Treasurer's Drainage Administration Office has received a Petition for an Improvement of JD #367 and recommends acceptance of said Petition; and recommends the appointment of Chuck Brandel, engineer with I&S Group, as engineer for the proposed Improvement Project.

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby accept the Petition for an Improvement of JD #367; and appoint Chuck Brandel with I&S Group as engineer for the proposed Improvement Project. Carried unanimously.

The Board reviewed thank you letters received from the Retired Senior Volunteer Program (RSVP) and Southern Minnesota Initiative Foundation (SMIF).

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve payment of claims for the month of January, 2013 as presented; and includes the Martin County Highway Department bills as presented and Drainage Administration bills as presented. Carried unanimously.

Warrants received and paid January 15, 2013 are registered on file in the Auditor/Treasurer's Office as follows:

Revenue Fund – Warrants Approved January 15, 2013	\$202,415.19
Enhanced 9-1-1 Fund	\$ 11.40
Martin Co. Economic Development Authority	\$ 3,438.45
Solid Waste Management Fund	\$ 22,563.34
Law Library Fund	\$ 1,963.68
Martin County Transit Fund	\$ 49,577.37
County Attorney's Forfeiture	\$ 9,045.86
Recorder's Compliance	\$ 4,615.00
Ind. Sewage Treatment Sys. Loan Fund (ISTS)	\$ 5,914.70
Building – CIP – Fund	\$ 2,682.80
Bank Building Fund	\$ 1,597.69
Refunding Fund	\$ 3.36
Forfeited Tax Fund	\$ 147.03
Total	\$303,975.87

Road and Bridge Funds Totaled	\$ 76,231.73
Martin County Ditch Fund – Warrants Totaled	\$250,208.99

Commissioners presented their individual board member reports.

Commissioner Flohrs stated he attended the Human Services Exec meeting on January 3<sup>rd</sup>; Library Board meeting on January 8<sup>th</sup>; Martin Soil and Water Conservation District meeting and Jackson/Martin Rural Water System meeting on January 10<sup>th</sup>; and GBERBA meeting on January 11<sup>th</sup>.

Commissioner Schmidtke stated he attended a Compensation Advisory Committee meeting and regular Martin County EDA meeting on January 7<sup>th</sup>; and Personnel Committee meeting on January 14<sup>th</sup>.

Commissioner Donnelly stated he had nothing new to report.

Commissioner Pierce stated he had nothing new to report.

Commissioner Belgard stated in addition to those mentioned he attended the Region 9 meeting in Mankato, MN on January 9<sup>th</sup>.

Commissioners reviewed their calendars of upcoming meetings and activities: January 15<sup>th</sup> – Joint meeting with Soil and Water Conservation District at noon, and Labor Management

Committee meeting at 1:30 p.m.; January 16<sup>th</sup> – Human Services meeting in Fairmont; January 18<sup>th</sup> – Prairieland Exec meeting at 8:30 a.m. and regular meeting at 9:00 a.m.; January 21<sup>st</sup> – MVAC meeting; January 22<sup>nd</sup> – Drug Court Graduation at 12:30 p.m. and Planning & Zoning Commission meeting at 5:30 p.m.; January 23<sup>rd</sup> & 24<sup>th</sup> – Commissioners Flohrs and Belgard will be attending AMC’s County Government 101: An Essential Conference for all Newly-elected County Officials in St. Paul, MN; January 28<sup>th</sup> – River Board meeting in Gaylord, MN; January 29<sup>th</sup> – Water Plan Advisory Committee meeting; January 30<sup>th</sup> – Family Drug & Adult Court meeting at 7:30 a.m. and 8:15 a.m.; January 31<sup>st</sup> – Region 9 Community Economic Development Committee meeting in Mankato, MN; February 4<sup>th</sup> – RC&D Meeting in Mankato, MN and regular Martin County EDA meeting at 5:15 p.m. (Belgard will be absent); and February 5<sup>th</sup> – regular Board of Commissioners meeting at 9:00 a.m. in the Board Room (Belgard will be absent).

The Board recessed at 9:45 a.m.

The Board reconvened at 10:00 a.m.

Chairman Belgard welcomed those present to the public hearing for the Second Amendment to the Martin County Judicial Ditch #40 Final Report. Those present were Commissioners Schmidtke, Donnelly, Pierce, Flohrs, and Belgard. Also present were Chad Diegnau, Landowner, Ralph Messer, Landowner, Tom Golly, Landowner, Rich Perrine, Martin SWCD/Water Plan, Mike Findley, Landowner, Jeff Mathiason, Tenant, James Teubner, Landowner, Mike Forstner, Martin County Ditch Inspector, Deb Mosloski, Martin County Drainage Administrator, Jim Weidemann, Viewer, M.D. Holland, Viewer, Tom Maday, Landowner, and Charles Frundt, Attorney for Petitioners.

Deter stated as you will recall the last hearing we had the Amended Engineers Report with the fourth option and if I recall right kind of Amended Viewers Report or a couple of changes in that. At that time the Board and I really honestly don’t recall exactly you may have because I think at that time we thought maybe you were going to make a decision...we may have closed the oral portion; but then you ended up continuing the hearing so there still is the opportunity for issues today to be discussed. But as we’ve talked with the Chairman it is not to redo the entire last hearing. At the last hearing my recollection is there was one location that they had done the camera work to check on the condition of the tile line on Ditch #40. My recollection is the Board did not feel comfortable making the decision on the condition of the system just based on one location so you ordered the appointed engineer who you appointed Chuck Brandel to go out and do further investigation because that issue goes to the Separable Maintenance issue and so today’s purpose of today’s hearing although like all hearings we may veer a little bit and have some questions...but the main purpose was to have Chuck (Brandel) report back to you on the condition of the system. I believe he has submitted an Amended Report on that issue or second Amended Report. Since that is new information clearly we have to allow questions and oral testimony on that because it is information that wasn’t available at the last hearing. That then the agenda looks more complicated than it is. It is basically a lot of it is just boiler plate things you have to decide at one point. But again as to the issue of condition of the system the reason it’s important is under 103E 215 Subd. 6 because this is one of the decisions you’ll have to make...at the hearing if the drainage authority, which is you, determines that only a separable portion of the existing system will be improved, which is the case here they’re not improving some of the

branches, and that a portion needs repair; the drainage authority shall determine and assess by order the proportionate cost of the improvement that would be required to repair the separable portion of the drainage system to be improved. Back to that issue of if it needs to be repaired that goes to separable maintenance because that would need to be done anyway so you are the one that decides what proportion is a repair cost and what proportion is an improvement cost and then on the agenda you'll see depending on what you decide there or not really depending but whatever you decide there then under #3 in order to approve this system you would need to find those six items right out of the statute. So it is fairly lengthy but today's basically to hear Mr. Brandel's report on the condition of the system and like I say certainly we have to open it up to that issue and there may be a few other questions that would be appropriate to reopen just to make sure everybody gets a fair hearing on this. So I'd suggest at this point on the agenda we have Mr. Brandel do what you directed him to do – report back to you.

Chuck Brandel, Engineer with I&S Group, presented the Second Amendment to the Martin County JD #40 Final Report. Brandel stated at the Second Final Hearing for the improvement of Martin County JD #40 on December 18, 2012, the Board ordered a further investigation into the project to televise larger portions of the existing system to review its condition. Previously one area was televised which revealed offset joints and soil in the existing tile. On December 27, 2012, three other areas were televised. In total approximately 2,660 feet of JD #40 mainline were televised. The televising revealed multiple areas in which there are issues with the existing tile. Many areas have offset joints which are causing sediment to get into the system. Due to this there are many areas that have sediment building up in the tile. This sediment in the bottom of the tiles along with the offsetting joints greatly reduces capacity throughout most of the televised sections, not allowing it to function as designed. Other areas had cracked or broken tile that are very close to failure. Also found were multiple areas where the tile had been repaired. Two of these repairs were completed with Corrugated Metal Pipe (DMP) that is showing signs of rust. Due to the corrugated profile of the pipe it acts as a restrictor. These areas reduce flow by 40% when flowing full. Some areas of the tile were in working condition (Brandel reviewed these areas on a map of the televised areas and pictures of some of the tile conditions).

Brandel continued based on the televised areas of the system it is our opinion that the tile is out of repair. There are numerous areas in which there are offset joints, cracked tile and repairs that reduce the capacity of the system. The offset joints and cracks are causing material to get into the tile and it has settled into the bottom of the pipe. This material cannot be removed without damaging or replacing most of the system. The camera did get stuck many times in this material as it is relatively thick in many places. Based on the information gathered, separable maintenance should be granted for the improvement project.

Brandel went on to state since the last final hearing a portion of Branch B-3 was added on the Teubner Property and a portion of Branch F was found to be constructed in another location. These additions slightly raised the cost of the improvement. We have updated the final plan and cost estimate to reflect that change.

Table 1. Improvement Options Cost Summary

Improvement Cost	Estimated Project Cost	Estimated Separable Maintenance	Estimated Improvement Cost
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Option 3 (Complete Replacement)	\$1,407,261	\$917,645	\$489,616
Option 4* (Abandon System & Discard some branches)	\$1,298,487	\$917,645	\$380,842

\*Option 4 will exclude part of Branch B, all of C, D, & I

\*Option 4 will reroute Branch E, F-1/2, & H to exclude tile borings

Chairman Belgard stated this would be a good time to find out anything about that aspect of it because this is new information. We're not going to rehash all the old information because we kind of closed that portion of it. But this is new information and if you have a question for Chuck (Brandel) this is the time to get it answered.

Deter stated to Brandel I want to make sure we've met the statute. You went out and it is your opinion that this system is out of repair.

Brandel answered correct.

Deter: stated to Brandel in your opinion as to the cost to that repair the proportionate share that the engineer is supposed to report back is this \$917,645.

Brandel answered correct.

Deter stated to Brandel which would leave an improvement cost of this \$380,842. So that's the report required under separable maintenance and that's your opinion.

Brandel answered that's my opinion.

Deter asked Brandel the option that you're recommending is Option No. 4?

Brandel answered it's Option No. 4.

Deter asked Brandel with these few minor changes you talked about today?

Brandel answered yes and that's abandoning a majority of the system and redoing a majority of the system.

Deter stated Mr. Chair I think we've covered No. 4 there doesn't appear to be any questions on his report so No. 5 we'd have Mr. Ringquist based on whatever changes have been discussed any amendments he has made to his reports.

Ron Ringquist, Viewer, stated as far as the amendments to the Viewers Report those that have been included in the most recent report dated January 9<sup>th</sup> I've highlighted those areas of change that were not part of the original consideration. I've done that both with the redetermination of benefits as well as looking at the improvement project itself. I did the redetermination and the board did defend that but this Branch F-1 was not constructed we have adjusted the benefits to reflect that. There are three parcels, four parcels that would be affected by the elimination of

Branch F-1: Ralph Messer's property was adjusted by removing the tile that was the tile benefit that F-1 provided as well as now his property is one 40 away from the system so a proximity adjustment was lowered to 85% from 100% because he no longer has a public tile. Tollakson's is closer we removed the tile as well but it is only half a 40 away from the system so that the proximity was adjusted down to 93% and there was tile removed from the Rice Lake LLC property which is the 40 here (on map) where Branch 1 went through although they still have a direct physical outlet so their proximity didn't change but the tile was adjusted to reflect that the removal of the tile footage for Branch F-1. With that the new benefits are \$1,469,889.58. The same properties were affected similarly in the improvement because Branch F-1 is removed and is not to be reinstalled so the proximity adjustment was made for those properties.

Deter asked Ringquist the \$1,469,889.58 that's the redetermination benefits?

Ringquist answered that's the net benefits on the redetermination.

Deter asked Ringquist so when we approved the redetermination at the last hearing we'll need to do an amended order with these changes.

Ringquist answered yes, a correction of an obvious error when those lines were (inaudible).

Deter stated alright. Thank you.

Ringquist continued on the improvement the same properties were considered for the Branch F-1 not being in place as well as the Jim Teubner property on the north end. One of the original maps that we got from Mr. Brandel included the 700 feet of tile that was running east and west which I think will be real close with what it ends up with. But because that was not part of an improvement at the last hearing that was to be removed and we've now re-included that in this report as to having 600 feet because that was our understanding. That will have to be adjusted based on the final footage and will be included with the final orders. We will also then have to make certain that we get Branch F-1 half tile footage removed because that is not all being replaced so that the remaining tile footage is all that is being assessed. And we will have to get the damage areas for Mr. Teubner as well as the temporary construction damage areas from those properties that no longer have Branch F-1 and we'll have to get those corrected and included in the final determination.

Ringquist stated the overall benefits subject to only the tile footage on the Teubner property because the rest are just damages the determination of benefits shows benefits from the improvement of \$558,048.84.

Deter asked Ringquist did we have any damages for the improvement project?

Ringquist answered there were damages listed originally for the temporary easement with the construction of the tile. As I said I'll have to get together with Mr. Brandel and get those finalized as to what those damages are.

Brandel noted I have them included in my costs also.

Deter stated okay because we have to make sure the benefits exceed the cost plus the damages so we've got costs so you've got the damages in the \$380,842 or whatever number it was?

Brandel answered yes.

Deter stated okay I guess it is already in there then.

Brandel noted Ringquist didn't give me updated damages but they were in the costs...

Ringquist noted the damages are there but we didn't get them broke down by forty.

Deter stated Mr. Chair then if there are any questions from the public about the amendments Ron Ringquist made.

Chairman Belgard asked for public comment regarding the Viewer's Report. There was none.

Deter continued alright if not again without rehashing everything if there is any other comments maybe somebody wasn't here or something has changed; but not to rehash everything but just one more time just to make sure people have had a fair opportunity to make a comment.

Chad Diegnau, Landowner, stated I have one quick question. I visited and I think Chuck Brandel visited with the attorney that I visited with about the possibility maybe this isn't the right time Chuck to bring this up you know about the possibility if there was (inaudible) walled pipe that was and I'm just exploring ideas ran across mine and my brother's property would that bring the property or would that bring the project costs down being able to use smaller pipe to bring the project down and I would just utilize the existing system or my own outlet at that point in time? I mean would they... I guess would they modify the Viewers Report would that change you know if it's all coming down to dollars and cents for me and my brother is that a possibility at all I mean is it only going to lower it \$20,000 and if it is would that be foolish for us or if it is going to lower costs \$100,000...I don't know when the time to bring it up is so I'll just say it now.

Deter stated the time probably would be the statute allows for change orders and if you, and I don't know what you're going to decide today, but if you approve the project today and there were discussions at a later point that you can't increase the cost more than 10% but this wouldn't increase it, it would possibly decrease it. So if that would come to the board there's always the opportunity for a change order should there be some discussions later...that would be the time to do it. So to answer his question if it isn't changed today does that automatically mean it can never be changed? No. Many of my projects have change orders during part of the process.

Diegnau asked does everyone on the Board see what I'm trying to get at there? When the tile hits my property line due to the proximity of where we are, being on the outlet end of the pipe, being able to just...I'm assuming Chuck (Brandel) it's perforated the whole way, correct?

Brandel answered the deeper areas would not be perforated and the shallow areas would be. So there would be some perforated pipe; but I can explain what you're talking about if that's alright?

Diegnau answered yeah, feel free.

Brandel asked Deter if he would be able to answer.

Deter answered yes, briefly. It's not your project now but it's at least to let people know...it might be discussed later but that's not what is being recommended today.

Brandel noted what was discussed was taking the outlet and it's a 36" pipe through here (on map) taking a portion of that off the system directly taking it to the creek and could this become a smaller pipe. I haven't looked that detailed if it could become a 30" pipe there might be a savings of around \$100,000. This area would still be affected by overland flow so I don't think you would be 100% out of this system but there might be a reduced benefit. So that's what was asked and I just wanted to bring that up so maybe you're more clear on what was asked. That's not part of the petition, and it's not part of why we're here today.

Diegnau stated I have to weigh my costs versus benefits also so I'm not saying that this is something; but our location on the system is much different than the people upstream where they don't have any options they need to be a part of this. I'm just totally looking at my sheer output of out of pocket expense...is there a cheaper alternative for me to drain that and ultimately bring the cost of the project down also. Like I said I didn't know when the time was to bring it up.

Deter noted I think just from letting the board know that change orders are possible just so that if it ever does come back in front of you it is possible subject to some limits under the statute.

Chuck Frundt, Attorney for the Petitioners, and I wasn't at the last meeting; but I do understand that it was presented with respect to the six criteria but I'm not sure if it was talked about the economic impact and I just wanted to point out that these petitioners need this drainage and the economic impact to the whole county to all the agriculture if we can't have drainage we can't have the prices and the benefits of production that this county has produced. The only way that we can get these systems improved to present standards is by using the system that we're using now and thereby we need all six of the standards you'd have to make findings with them and in particular the interest in public utility benefits and will promote the public health has always been if you can increase production of these agricultural lands we can promote the public health, it can be a public utility to the whole area. I think that's what is important. And the issue with practicability of the system it is my understanding is that is the cost benefit ratio determination. We can't exceed the costs we have to have enough benefits to pay for it and it's the people on the system that are paying for it, it is not a tax, it is a payment for the benefit that they get by virtue of this project. So we're supporting the petition totally.

Chairman Belgard noted in regard to that I'm just going to make a statement about some of the stuff that we all know. I think we all know that that land needs better drainage. I think we all know that it is shared by everyone in the watershed and fairly or unfairly it goes to everybody.

That's why we hired the engineer, we hired the viewer, and I feel a lot of sympathy for the people that don't feel they're getting benefits because there are just a couple of them that are going to get socked with a lot of costs and this board has struggled with this decision now for several months. It's not an easy decision as I think you are all well aware. It would probably be a lot easier if there was less separable maintenance and more improvement costs but we hired a person to do it and they did the job. We just have to decide now if the criteria have been met.

Deter stated Mr. Chair I think it would be appropriate right now for a motion to close the public portion and get into the decision making by the board. I think everything has been presented that the statute requires as far as information...I don't know what you're going to decide.

Motion by Commissioner Flohrs, seconded by Commissioner Schmidtke, to close the public portion of the JD #40 Continuation Hearing. Carried unanimously.

Deter stated Mr. Chair now it's back to the board and I've laid out this agenda. The first thing under the statute is that the drainage authority must determine if the system needs repair to be separable maintenance. That's your decision...you've heard the testimony from the engineer, I'll let you decide. I haven't heard a lot of other testimony refuting that; but it's still your call. You would need to first of all somebody would need to make a motion that the system is out of repair and separable maintenance should apply. It doesn't mean the dollar amount it just means that you found it out of repair. Or, you could decide it doesn't. Whatever you decide.

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby approve the Final Engineer's Report and acknowledge that JD #40 is out of repair and that separable maintenance applies. Carried unanimously.

Deter continued then Mr. Chair and again it says as I read before the drainage authority must decide the proportionate cost of the improvement versus the proportionate cost of the repair. You've heard the recommendation of the engineer, again it is your call, but his recommendation of the proportionate costs is \$917,645.00 of separable maintenance proportionate share and \$380,842.00 of improvement costs.

Motion by Commissioner Schmidtke, seconded by Commissioner Flohrs, Be it Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby approve JD #40 Engineers Improvement Option No. 4 with estimated cost of separable maintenance in the amount of \$917,645.00 and estimated cost of improvement in the amount of \$380,842.00. Carried unanimously.

Deter stated then Mr. Chair we get down to the actual six issues that you have to find in order to establish this project. Actually you've done kind of the preliminary things and now it's to actually establish the project. Deter read the six criteria needed to establish the proposed improvement: 1) The detailed amended Engineer's Report and amended Viewers' Report have been made and other proceedings have been completed under Minnesota Statutes 103E. ; 2) The reports made or amended are complete and correct; 3) The damages and benefits have been properly determined; 4) The estimated benefits are greater than the total estimated costs

including damages; 5) The proposed drainage project will be of public utility and benefit and will promote the public health; and 6) The proposed drainage project is practicable. Again in your own mind based on what you heard not only today but the other final hearings if someone feel those six items have been met with the inclusion of separable maintenance somebody would need to make that motion. If somebody thought one of these was missing or more was missing then they could make a motion to deny it because it doesn't meet that criteria.

Motion by Commissioner Flohrs, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby approve the establishment of the proposed JD #40 improvement based on meeting the six criteria required by MN Statutes 103E including 1) The detailed Engineer's Report and Viewer's Report have been made and other proceedings have been completed under Minnesota Statutes 103E, 2) The reports made or amended are complete and correct, 3) The damages and benefits have been properly determined, 4) The estimated benefits are greater than the total estimated costs including damages, 5) The proposed drainage project will be of public utility and benefit and will promote the public health, and 6) The proposed drainage project is practicable. Carried unanimously.

Deter stated Mr. Chair with the Board's approval I'll be putting together a very detailed Findings of Fact and Order for the chairperson's signature. Once that Order is filed with the ditch file there's a thirty day appeal period just so people are aware that it is in the law so I will draft that and get it down as soon as I can and have it signed.

Commissioner Pierce asked and tell me if this is the proper time...but we've had petitions to get out. How does that fit into the picture...a different time?

Deter answered that will be the next thing we take up when you address the four or five petitions for removal. I think we'll finish up this one I can't think of anything else oh one thing I will send down another amended Order on the redetermination also because you've already signed one but there was some amendments today because F-1 isn't there so I'll send another order down on that.

Chairman Belgard stated and I don't know if now it is the proper time...but it is good for the people that are here. What is our authority or when do we decide on the repayment of this, how long do you schedule it over because I've heard that it would be more palatable if we can spread it out over more years giving some people the option to pay early if they want or if they don't want they would have the option to pay a little bit I believe up to twenty-three years.

Deter answered when they come back with Deb (Mosloski) or Jim (Forshee) or whoever comes back with the authorization to levy whatever the total ends up being, at that point you set the interest rate and the period of time that you're going to spread it over. And I assume most people will say like every ditch spread it as far as we can. We may prepay but we'd like it spread as far as possible.

Motion by Commissioner Flohrs, seconded by Commissioner Pierce, to close the Final Hearing on JD #40. Carried unanimously.

Deter next stated then Mr. Chair what we do maybe want to take up, not as a hearing, but it is more of what the next step is, I think we received requests for removal from Diegnau, Bahr, and Craven...the statute allows you to remove property. This isn't an abandonment of the system the statute allows that if you're not going to use the system and somehow you get no benefit because your water's not even going to the system you can petition for removal. But it's only from the established system and the established built system right now is only the existing ditch #40 so and I've talked to some people...right now we could set a hearing but in my opinion there's no way they can be removed because it goes into Ditch #40...we'd be wasting a hearing. People have the right to have that hearing but you'd have to be able to say that my water doesn't get to the existing ditch #40. Now I don't know all three of these cases...maybe they don't. But if their water gets to the existing ditch #40 it can't be removed. It doesn't meet the requirements. So if any of them are still here and still want a hearing and say hey my water doesn't even get to the existing ditch #40 I shouldn't be in the benefited area fine we'll set a hearing.

Chad Diegnau, Landowner stated I've been advised to withdraw mine and my brother's petition to get off the system. But I do at a later date want to spend some time on what I discussed earlier.

Deter noted I think all petitions...by withdrawing or even putting it in advance doesn't mean they've given up any rights. But right now in my opinion it would be premature to hold that hearing because it just wouldn't make any sense. There's no way unless there's something I don't know if they're in the existing system and their water gets to the existing ditch #40 the Board wouldn't have the authority to remove them. And it may be down the road that this gentleman because of his location...physically you've got to be able to take your water somewhere so. So my advice at this point subject to anybody saying no I want a hearing would be to I think two of them have been removed and the other two just hold and take no action at this time until there is some change.

Chairman Belgard opened the public hearing to consider and review the current fees and charges for various county services. Higgins presented a listing of countywide fees for review including new proposed fees and what has changed:

- County Wide Fees: Per copy 8 ½ x 11 Color Copies at \$0.50 per page; and Postage or Package Rate (charges added as required)
- Assessor's Office: Non-contract Appraisal Charges of \$8.09/parcel for Townships, \$9.42/parcel for Small Cities, and \$13.29/parcel for City of Fairmont were approved by the Board in 2012 and are now reflected on the County's fee schedule.
- Auditor/Treasurer Office: JOBZ – Annual Maintenance & Set Up will be deleted. Shown on fee schedule for title only; and Photocopies at \$0.25 per page
- Department of Corrections: CD Assessment Fee has been waived and will be deleted.
- Sheriff's Office: Non-accident reports will be \$0.25 per page.
- Public Transit: Bus Advertising Panel (24" x 48") \$55.00 per side.
- Fireworks Display Permit- It was determined to find out what City of Fairmont was charging and to include the same.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, to close the public portion of the meeting. Carried unanimously.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Whereas in accordance with MS 373.41 a public hearing was held at the Martin County Courthouse in the Commissioners Meeting Room on January 15, 2013 to consider changes to the Martin County Department fee schedules and policies for 2013; and to take public input on the Fee Schedule and new proposed fees; and Now Therefore, Be It Resolved, that the Martin County Board of Commissioners reaffirm all Martin County Department Fee Schedules and policies and adopt additional charges (fees) to the Martin County Fee Schedule as presented (attached); and as on file in the Office of the Auditor/Treasurer and the County Coordinator's Office effective January 1, 2013. Carried unanimously.

With no further business to wit Board Chair adjourned the meeting at 10:48 a.m.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Elliot Belgard, Board Chair

ATTEST: \_\_\_\_\_  
Scott Higgins, Coordinator