

REDWOOD COUNTY, MINNESOTA

County Ditch Authority Minutes, August 21, 2018

CONTINUATION OF PUBLIC HEARING – LATERAL X of JUDICIAL DITCH #36

- At 10:00 a.m., Chair Walling entered into County Ditch Authority for the continuation of a Public Hearing for the petition filed by Mark and Jan Kelly for the construction of a lateral to connect to Lateral X of JD #36. Present were Redwood County Commissioners Walling, Forkrud, Van Hee, Groebner and Salfer, Administrator Knobloch, Auditor/Treasurer Price and Environmental Director Scott Wold, Landowners Mark and Jan Kelly and Attorney Jeff Braegelmann.
- On motion by Salfer, second by Groebner, the Board voted unanimously to approve the Ditch Minutes from 8-7-18.
- Walling presented the legal counsel decision from Rinke Noonan Law Firm in reference to request to amend the Viewer's Report as the estimated cost of the project is \$26,581.00 vs. the viewer's net benefit amount of \$11,942.00. Per MN Statute 103E.335, Subd. 2, an Amendment to the viewer's report must be based on an error to the viewer's report with facts representing this Amendment or that the benefits should be higher and it is based on facts necessary to change the benefits. Legal counsel recommends no changes to the Viewer's Report based on these facts. In reference to the Petitioner contributing \$15,000 towards the project: Legal counsel advises that the Statute does not allow a contribution of money to make the project feasible. Environment Director Wold states that the safest decision is to deny the Petition.
- Petitioner's Attorney, Jeff Braegelmann, requested an Amendment to the Viewer's Report with an increase in benefits be added to the project. They would like \$15,000 of net benefits added to their benefits, which would increase their maintenance cost percentage and lower the other landowner's percentage. They estimate that the market value increase to the property justifies the Amendment to the Viewer's Report per MN Statute 103E.335, Subd. 2. Option Two is to pay \$15,000 more towards the cost of the project. Braegelmann stated that half of the project was the fees for the Engineer's report along with lawyers' fees.
- Mark Kelly discussed his frustrations with working with the other landowner and states this project will increase the market value to his land and is looking to improve this land for the next 50 years.
- Chair Walling called for further public comments three times. Chair Walling closed the hearing to public comment.
- On motion by Groebner, second by Walling, in a 3-2 vote with Forkrud and Walling voting nay, the Board approved the Viewer's Report as submitted.
- On motion by Salfer, second by Groebner, in a 3-2 vote with Forkrud and Van Hee voting nay, the Board dismissed the proceedings and petition filed by Mark and Jan Kelly.
- Walling directed Auditor/Treasurer to prepare findings and order and authorize Drainage chair to sign.
- Chair Walling closed the Public Hearing and declared Ditch Authority adjourned at 10:44 a.m.

Attest: _____
Jean Price
Auditor/Treasurer

Lon Walling, Ditch Authority Chair
Board of County Commissioners