

Not Approved

LARSEN DRAINAGE DITCH MEETING

DECEMBER 8, 2016

PRESENT: Chairman Eckstein, Secretary Peterson and David Sleik

ALSO PRESENT: Clint Eckstein, Tom Eckstein, Ted Eckstein, Dan Eckstein and Travis Eckstein

Meeting called to order by Chairman Eckstein at 9:00 A.M, at the Town of Clayton Municipal Building. The meeting was properly posted. The first order of business was to approve the 2015 Annual Meeting Minutes of October 21, 2016. Chairman Eckstein made the motion to approve, seconded by Jerry Peterson. Motion carried 3-0. A motion was made by Jerry Peterson to approve the minutes for setting the 2016 Budget. This was seconded by David Sleik. Motion carried 3-0.

Next discussed was the lawsuit against Chairman Eckstein and Ted Eckstein by the DNR. The fine was \$5,000 a piece. This is about excavating in the drainage ditch without the proper permit and not having an archaeological study done in the area of the Arrowhead River. Both Chairman Eckstein and Tom Eckstein met with the DNR along with the drainage ditch Attorney Koehler of Herrling & Clark on November 9, 2016. Several days later both David Sleik and Jerry Peterson met with the attorney individually to get an explanation as to why the drainage board was not mentioned in the lawsuit since both Chairman Eckstein and Tom Eckstein were working on the cleanout on their behalf. David Sleik said the Board could pay the fine since they were working on behalf of the drainage ditch. Chairman Eckstein said that several years ago he met with the DNR along with Attorney Clark of Herrling & Clark. At that time Attorney Clark presented them with letters received by the drainage board regarding the cleanout and permits needed. The DNR never replied back to the attorney on the necessity of permits. Since they did not reply it was assumed everything was in order. After much discussion it was said that a permit had been processed on behalf of the drainage Board but no okay had come from the DNR. David Sleik said he feels since the Board didn't have the permit in hand from the DNR, that we should settle with the DNR and get on to the business of cleaning out the ditch. Chairman Eckstein said the ditch is 106 years old and was dug to help drain land and was never a water way of any kind and does not understand why the DNR is even involved. He doesn't feel they should have authority over a man made ditch. Dave Sleik stated whose going to pay the legal fees fighting against the DNR even if we think we have a case. He said the fact is the Chairman applied for a permit but since nothing was sent back, the DNR never approved the

cleanout. Also at times there is areas in the ditch that could be considered navigable. The amount of water also is based on the Corp of Engineers and how they operate the dam at Neenah. David Sleik said it comes down to dollars and cents on how much money, time and effort the Board is willing to spend fighting the DNR. At this point David Sleik made a motion to get a different attorney to represent the drainage board. An attorney more knowledgeable on drainage ditches and permits needed. Jerry Peterson agreed this was needed.. David Sleik mentioned Attorney Paul Kent of Madison. This attorney gave a presentation at the State Drainage Convention which the Board attended. He seems to be very knowledgeable on drainage ditches. It was agreed to contact him and after discussing with Attorney Kent the problems the drainage district is having with the DNR, should then see if Attorney Kent will take us on as a client. Whoever contacts him should also have the authority to pay a retainer of up to \$15,000 when discussing if he will take us on as a client, He wants this all to be part of the motion. This was seconded by Jerry Peterson. Roll call vote taken – Jerry Petersoin-yes; David Sleik-yes; and Chairman Eckstein-yes. Motion carried 3-0. Jerry Peterson made the motion to authorize David Sliet to contact Attorney Kent. This was seconded by Chairman Eckstein. Motion carried 3-0.

David Sliet stated that Chairman Eckstein and Tom Eckstein were acting in the best interest of the drainage ditch by continuing the cleanout and that the drainage board should pay their fine. He then made the motion to pay the DNR fine of \$5,000 for Chairman Eckstein and \$5,000 for Tom Eckstein the excavator, including legal fees seconded by Jerry Peterson. Roll call – Jerry Petersin-yes; David Sliet-yes; Chairman Eckstein-abstained. Motion carried 2-0. David Sleik will after getting a different attorney for the drainage board, contact Attorney Koehler of Herrling & Clark advising that the draining board has obtained a different attorney to represent them. Attorney Kent will probably need to request some additional time to get this matter settled, since the Department of Justice has a deadline for a reply of December 9th

Jerry Peterson made the motion to adjourn, seconded by David Sleik. Motion carried 3-0. Meeting adjourned at 10:55 P.M.

Respectfully submitted,

Joanne Sievert, Recording Secretary