



**MINUTES
SCOTT COUNTY DITCH BOARD MEETING
SCOTT COUNTY, MINNESOTA
JUNE 17, 2025
8:00 AM**

(1) CONVENE

The Board of Commissioners, in and for the County of Scott, Minnesota, met in the County Board Room in the City of Shakopee, Minnesota, and convened at 8:00 a.m. The following members were present: Commissioner Weckman Brekke, Commissioner Wolf, Commissioner Brennan, Commissioner Beer, and Commissioner Ulrich. Commissioner Beer presided.

The following were also in attendance:

1. Danny Lenz, Deputy County Administrator
2. Ron Hocevar, County Attorney
3. Brad Davis, Planning and Resource Management Director
4. Cindy Geis, Community Services Director
5. Jared Kotasek, Prof Land Surveyor- Principal
6. Dan Wormer, County Surveyor
7. Rhonda Otto, Deputy Auditor/Treasurer
8. Kris Lage, Senior Operations Analyst
9. Emily Hill, Community Planner
10. Michelle Hesse, Deputy Clerk to the Board

Guests:

1. John Kolb, Rinke Noonan Law Firm
2. Tim LaCroix, LaCroix Law
3. Tim O'Loughlin, Shakopee
4. Leroy Voehl, Prior Lake
5. Bonnie Malecha
6. Richard Malecha
7. Steve Jelinski, City of Credit River
8. Brian Otting, Prior Lake
9. Ted Kowalski, Spring Lake Township
10. David Efta, Prior Lake
11. Ag-Rita Efta, Prior Lake
12. Sandra (Drew) Stillwell, Prior Lake
13. Bruce Brush, Prior Lake
14. Rob Casey, Prior Lake
15. Ron Malecha, Jordan
16. James Fehler, Jordan
17. Mark Scheffler, New Prague
18. Hilary Scheffler, Lonsdale
19. Michelle Clabaugh, Prior Lake
20. Chad Clabaugh, Prior Lake
21. Jim Nimsgger, Prior Lake
22. Dave Penney
23. Michael Laube, Prior Lake
24. Scott Strenge, Prior Lake
25. Roger Dalland, Prior Lake
26. Mohamed Ali, Drug Free Communities (DFC) Youth Advisory Member

(2) Approve Minutes

2.1 June 3, 2025 Ditch Board Meeting Minutes

On a motion by Commissioner Wolf, seconded by Commissioner Brennan, the June 3, 2025 minutes were approved unanimously.

(3) NON-CONSENT

3.1 Continue the April 15, 2025, Public Hearing on Abandonment of County Drainage Ditch No. 5 and Adopt Resolution No. 2025-171; Adopting Findings and an Order Granting a Petition Abandoning Scott County Drainage Ditch No. 5

Chair Beer continued the Public Hearing which began on April 15, 2025.

Commissioner Weckman Brekke explained that any redetermination of benefit or repair/maintenance expenses must be assessed to the benefitted owners of the drainage system. County funds may not be used.

Ditch Attorney John Kolb added that Public Drainage systems must carry their own costs by determining a benefits roll with each benefitted landowner paying percentage of the cost based upon the percentage of their benefit. Mr. Kolb continued that if the ditch is abandoned, landowners have the right and responsibility to perform the necessary maintenance to remove water, debris, obstructions and sediment, deadfall trees and vegetation, from their property, as long as the geometry or dimension of the system is not altered. The difference between a private drainage system and a public drainage system is whether costs are the responsibility of an individual landowner or shared among all of the beneficiaries. The process to update the benefits roll is to redetermine benefits to accurately reflect the lands that are utilizing or putting a burden on the drainage system. The work is done by Viewers who charge approximately \$4 an acre within the watershed (approximately a few thousand acres). Regarding state owned portion of the ditch, the ditch authority has statutory authority to require a state agency to allow the ditch authority to maintain a portion of the ditch.

Senior Operations Analyst Kris Lage summarized findings since the April 15, 2025 meeting.

- A meeting with Minnesota Department of Transportation (MNDot) regarding Trunk Highway 13 provided no evidence that the elevation is above the as constructed grade of County Ditch 5 (CD5). MNDot has no plans to perform any work in next 10 years and the crossing does not obstruct the free flow of water into the drainage system.
- Inquiries into the 233rd St. culvert provided no evidence that the culvert is above the as constructed grade. CD5 is an inventoried public water course and the 233rd St. culvert serves as drainage/hydraulic control for the public water wetland South of 233rd Street. Lowering culverts would require DNR permits and potential mitigation of impacts to public waters. The DNR will allow continued maintenance to remove obstruction or other debris within the drainage system channel whether a county ditch or abandoned.
- The Bradshaw Lakes Study included participants from the Watershed Management Organization (WMO), Department of Natural Resources (DNR), and landowners to study CD5 and Bradshaw Lakes Wildlife Management Area. The study considered several scenarios for the future of CD5. The consensus was to maintain the status quo and perform spot maintenance rather than a full ditch clean out.

Tim LaCroix representing Drew Stillwell, 23980 Newport Ave.

Mr. LaCroix requested an additional 60-day continuance to allow sufficient time to explore viable alternatives with other affected property owners. Alternatively, Mr. LaCroix is prepared to submit a formal objection pursuant to Minnesota Statute § 103E.081, requesting the appointment of viewers to examine and assess the impact of full County abandonment of the drainage system on the property owned by Mr. Stillwell.

Mr. Kolb stated that As a current benefitted landowner, Mr. Stillwell is entitled to request a viewer analysis for his property. The cost associated with this viewer process is borne by the drainage system and would be assessed proportionately to all benefitted landowners. Mr. Kolb added that an alternative option is partial abandonment of County Ditch 5, east of Newport Avenue.

James Fehler, 22665 Langford Ave., Jordan

Mr. Fehler asked about the Right-of-Way markers along the ditch. Mr. Kolb explained that a Right-of-Way allows the County access to a public ditch for maintenance and clean out. If the ditch is abandoned and no longer a public system, the Right-of-Way is eliminated, and private landowners may clear an obstruction but may not obstruct the waterway on their portion of the ditch.

Tim O'Loughlin, 12635 N. Shannon Drive, Shakopee

Mr. O'Loughlin stated that he is in favor of partial abandonment. Mr. Kolb stated that once abandoned, the Ditch Authority may not require maintenance upon any landowners. Parties are encouraged to form agreements among themselves.

Bonnie Malecha

Ms. Malecha is not currently a benefited landowner, but has 3 easements which drain to CD5. She requested a ditch cleanout out west of Newport to alleviate annual flooding on her property. Ms. Malecha has not received notifications regarding ditch proceedings because the notifications were sent to landowners in the benefited area.

Mr. Kolb restated that a viewer analysis will redetermine benefitted landowners on the ditch so that those who benefit from the ditch are the correct payors.

Ted Kowalski, Spring Lake Township

Mr. Kowalski requested clarification regarding ditch maintenance.

Mr. Kolb stated that on a Public Drainage System, the Ditch Authority may impose assessments to pay for the work. On a private drainage system, a landowner can be compelled to allow entrance to their property to maintain the drainage system but cannot be compelled to pay for it.

Motion by Commissioner Weckman Brekke, seconded by Commissioner Wolf to close the Public Hearing at 8:54 a.m. The motion carried unanimously.

Motion by Commissioner Weckman Brekke, seconded by Commissioner Brennan to continue County Ditch 5 Meeting on August 19, 2025, at 8:00 a.m. in the Scott County Government Center Board Room and direct staff to prepare a recommendation for partial abandonment and direct the attorney to prepare a draft of findings and order consistent with the proceedings and affecting a partial abandonment as recommended by staff. As part of this motion, allow Mr. LaCroix and his client to offer his written objection any time up to the final decision of the Board. The motion carried unanimously.

3.2 Conduct a Public Hearing at 8:00 a.m. to Receive Information and Public Comment Regarding the Abandonment of Scott County Drainage Ditch No. 4

Ditch Attorney John Kolb stated that County Ditch 4 (CD4), also known as Credit River, is currently an inventory public watercourse with a primary function conveying stormwater. There is currently no accurate benefits roll.

Senior Operations Analyst Kris Lage presented information on County Ditch No. 4 (CD4) in the City of Credit River. CD4 was constructed in 1913 and has 5 spurs. Ms. Lage outlined the steps that have been taken to gather landowner feedback regarding the future of the ditch. The majority of the benefited landowners wish to abandon the ditch. The ditch account balance is negative.

Motion by Commissioner Brennan, seconded by Commissioner Weckman Brekke to open the Public Hearing at 9:06 a.m. The motion carried unanimously.

Bruce Brush 20101 Texas Ave., Prior Lake

Mr. Brush described flooding on his property.

Mr. Kolb acknowledged that the DNR has regulatory authority over Credit River as a public watercourse. No state funding has been received for the maintenance of CD4 or Credit River.

LeRoy Voehl, 20418 Texas Ave., Prior Lake

CD4 goes through Mr. Voehl's property. He described washout on his property which has destroyed approximately 4.7 acres and invited the Commissioners to view the property and consider the damage before the ditch is abandoned.

Rob Casey, 17874 Murphy Lake Blvd., Prior Lake

Mr. Casey is in favor of abandoning the ditch. He suggested adding a ditch fee to building permits so that maintenance costs are not assessed only to the properties along the ditch.

Scott Strang, 6775 Century Lane, Prior Lake

The last redetermination of benefits took place in the 1970's. Mr. Strang is in favor of a new redetermination of benefits and asked for a full accounting for those who will be impacted by any action.

Mr. Kolb referenced the Minnesota Reasonable Use Drainage Doctrine for a situation when a party obstructs the waterflow, resulting in damage to another property.

Mike Laube, 20301 Boone Ave., Prior Lake

Mr. Laube commented on the resolution language, which he deems misleading. He is in favor of abandoning the jurisdiction of the ditch and handing it over to the City of Credit River.

Steve Jelinski, City Administrator, City of Credit River

A letter dated June 5, 2025, signed by Mayor Chris Kostik and City Administrator Steve Jeliniski has been received and entered into record. The City's position is to not abandon the ditch. The option to transfer the ditch to the City of Credit River has not yet been presented to the City Council. The City of Credit River is requesting a 90-day continuance to study the matter.

Motion by Commissioner Wolf, seconded by Commissioner Weckman Brekke to close the Public Hearing at 9:37 a.m. The motion carried unanimously.

Motion by Commissioner Wolf, seconded by Commissioner Weckman Brekke to continue the Meeting on September 16, 2025, at 8:00 a.m. in the Scott County Government Center Board Room. The motion carried unanimously.

(4) Adjourn

On a motion by Commissioner Wolf, seconded by Commissioner Weckman Brekke, the meeting adjourned at 9:37 a.m.