

Final Acceptance Hearing
Murray County JD #13
April 15, 2002

ATTENDANCE

Gary Ewert	<i>Heron Lake Watershed District</i>
Leo Crowley	<i>Heron Lake Watershed District</i>
Larry Eike	<i>Heron Lake Watershed District</i>
Jan Voit	<i>HLWD Administrator</i>
Dan Dols	<i>CWP Technician</i>
Mike Tow	<i>Wollschlager, Tow, and Welder</i>
Duane Hansel	<i>Bolton and Menk, Inc.</i>
Tim Kregel	<i>Kregel Brothers, Inc.</i>
Bob Springman	<i>Springman Tiling</i>
Bill Sauer	<i>Murray County</i>
Gary Spaeth	<i>Murray County Auditor/Treasurer</i>
Orrin Clarke	Stan Kramer
Jim Buschena	Jay Sauer
Alvin Heintz	Jim Larson
Verlyn Ommen	

Call to Order

The Board of Managers of the Heron Lake Watershed District, acting as a drainage authority under Minnesota Statutes, Chapter 103E, held a final hearing on the Acceptance of the Contract previously awarded to improve Murray County Judicial Ditch 13 at the Community Center in Fulda. The board will review the Engineer's Final Report on the project and take testimony from all interested parties to determine whether to direct payment of the contract balance due to the Contractor, Kregel Brothers, Inc., thereby discharging the Contractor, as well as the Engineer and its bond. The board members present were Gary Ewert, Larry Eike, and Leo Crowley. A quorum being present, the meeting was declared open at 7:05 p.m.

Engineer's Final Construction Report

The first item of business was to receive, review and discuss the Engineer's Final Construction Report. Duane Hansel of Bolton and Menk, Inc., the project Engineer, presented a summary of the final report, specifically reviewing (1) the contract price of the project; (2) the amounts previously paid under partial payment certificates, (3) the amount of the unpaid balance; and (4) the work that is completed under the contract.

Duane Hansel reported that the construction under the contract for these improvements has been substantially completed and that the ditch is ready, with some pending items to be resolved, for final acceptance.

He explained the change orders as follows:

Change Order #1 – deleted installation of 54" outlet pipe at CSAH #2.

Change Order #2 – Revised open ditch alignment across Heintz property in the SW1/4, Sec. 23, Bondin Twp.

Change Order #3 – Changed open ditch to tile on Clarke property in the SW1/4, Sec. 15, Bondin Twp.,

Change Order #4 – Changed open ditch to tile on a portion of the Kramer property in the NW1/4, Sec. 22, Bondin Twp.

The cost for these change orders was \$28,751.39. When added to the original contract amount of \$500,649.76, the revised contract amount is \$529,401.15.

During the construction project, several modifications were made which resulted in damages to crops outside the established right-of-way. Duane recommended that the board approve additional damages using the original damage rate of \$250.00 per acre for 1.1 acres on seven parcels in the amount of \$275.00.

Gary Ewert asked that Mike Tow explain why the damages that were discussed at the last HLWD board meeting were not included in the final report.

Mike Tow explained that those damages were liquidated damages that would be paid by the contractor. They were not an expense to the project and that is why they are not in the engineer's report.

Duane Hansel presented the summary of the costs for the project to March 6, 2002 and a comparison to the estimated costs as presented in the Final Engineer's Report. The estimated cost for the project was \$761,253.24. The final cost is \$758,794.94. The amount due the contractor to complete the contract is \$50,688.03.

Copies of the completed "Recorded Drawings" for the project were submitted to the HLWD and the Murray County Auditor/Treasurer.

In order to complete the project, a "Notice of Termination" for the erosion control permit required must be completed and submitted to the Minnesota Pollution Control Agency.

A punch list of remaining items has been provided to the contractor and includes (1) level upper four feet of ditch that is still rough and (2) seed and mulch upper four feet of ditch bank that was missed by the hydro seeders.

Larry Eike asked for an estimate of the cost for these items.

Duane Hansel said approximately \$3,000 to \$5,000.

It is the engineer's recommendation that a portion of the remaining payment to the contractor could be withheld until these items of work are completed. It was also his recommendation that any final construction work items be resolved with the contractor, that the additional listed crop damages be approved, and that the final payment be approved to the contractor in accordance with the specifications in order to financially close the construction project.

Gary Ewert asked if the engineer had any other recommendations or comments relating to the project. He did not.

Gary Ewert stated that he would open the floor to anyone having questions, objections, or complaints respecting the Engineer's Final Report.

Extensive discussion was held regarding the engineer's report, remaining PVC pipe and fittings, and the construction process. Several items need to be addressed including: (1) end of ditch by the intake needs seeding, (2) collapsing around the intake, (3) animal guards on two mains need to be installed, (3) questions regarding the costs for change order #4, (4) location of a 36" outlet pipe, (5) questions regarding the drain tile connections and road tile in change order #4, (6) change orders for Alvin Heintz and Stan Kramer cost less than what they were assessed, would the amount they are assessed be reduced? (7) engineer, contractor, and subcontractor must come to an agreement regarding the remaining PVC pipe and fittings, and (8) culvert removal and installation.

Gary Spaeth explained a revised financial report regarding the project. He addressed questions relating to damages paid to road authorities. The engineer will be preparing a billing statement for the road authorities for the actual costs incurred for the culvert replacement. This money will come back to the ditch system.

Discussion was held regarding the charges for administration and legal fees. A question arose regarding whom Mike Tow was representing. He represents only the HLWD.

Tim Kregel presented lien waivers from all contractors, subcontractors, and material men.

A question was asked regarding the cost of engineering. Duane explained that the cost was reflective of a project of this scope. The ditch proceeding process takes a lot of time and this project has been drug out over a long period of time.

Action by the Board

Larry Eike made a motion to retain \$25,000 from Kregel Brothers, Inc. and to pay the remaining amount to the contractor. Leo Crowley seconded this. Motion carried.

Larry Eike made a motion to adjourn the hearing until Tuesday, May 21, 2002 at 7:00 p.m. at the Heron Lake Watershed District office. Leo Crowley seconded this. Motion carried.

Closure

The hearing was closed at 8:55 p.m.

Leo Crowley
Acting Secretary