COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: July 28, 2014
AGENDA NUMBER: 5
ITEM: Review and Update of Emergency on Ditch 44-3

POLICY IMPACT: Policy
FISCAL IMPACT: Budgeted

REQUEST
Direct staff to contact County Sheriff and proceed with repair

BACKGROUND
Brief Description
High water as a result of rain fall has been unable to drain because of the elevation of the culvert at Lexington Ave and Ditch 44-3 near 161st St in Ham Lake. High water has led to basement flooding through seepage from high ground water levels. The threat of structural inundation of the home and saturation of the septic system is high.

The Board has reviewed or discussed this issue on

<table>
<thead>
<tr>
<th>Date</th>
<th>Setting</th>
<th>Synopsis</th>
<th>Board Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 12</td>
<td>Open Mike</td>
<td>Home owners addressed the Board concerning high water, water seeping into basement</td>
<td>Directed staff to contact ACHD and to complete examination of the flooding issue and remedies and report back to the Board.</td>
</tr>
<tr>
<td>May 27</td>
<td>Agenda Item 11</td>
<td>Staff Update: 1. Dewatering was done for 5 days, which lowered the water table. 2. Anoka Highway Department will replace the culvert at Lexington prior to June 30, 2014. 3. When the culvert is replaced, the CCWD will remove trees and repair the ditch from Lexington Avenue to the headwaters.</td>
<td>Board received the report</td>
</tr>
<tr>
<td>June 9</td>
<td>Agenda Item 24</td>
<td>Staff Update: 1. Additional dewatering took</td>
<td>Board received the update</td>
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<tr>
<td>Date</td>
<td>Setting</td>
<td>Synopsis</td>
<td>Board Action</td>
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<tr>
<td>June 16</td>
<td>District Tour</td>
<td>Board viewed the site from Lexington</td>
<td>None</td>
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<tr>
<td>June 23</td>
<td>Agenda Item 5</td>
<td>Board reviewed the nature and consequences of the emergency and adopted Resolution 14-4 declaring an Emergency on Ditch 44-3 upstream from Lexington.</td>
<td>Adopted resolution 14-4</td>
</tr>
<tr>
<td>June 24</td>
<td>Project Notification Letter</td>
<td>Letter hand delivered to resident or residence of each of the 5 properties affected by the project. (Letter is attached).</td>
<td></td>
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</tbody>
</table>
| June 26    | Meeting at Covey home    | Property owner indicated:  
1. She was opposed to the project  
2. They (The Covey’s) had no flooding issues  
3. They were concerned about the loss of privacy  
4. They were concerned about the impacts on wildlife  
5. The proposal would take 120 of her trees and that the District would have to pay for those damages.  
6. Cherrier had to know someone to get this done  
7. That they were not going to paying any special assessments  
8. That the project was illegal and unpermitted by the DNR  
Staff took note of concerns and tried to clarify where there was an opportunity to do so. |                                     |
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<thead>
<tr>
<th>Date</th>
<th>Setting</th>
<th>Synopsis</th>
<th>Board Action</th>
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<tbody>
<tr>
<td>July 9</td>
<td>Field Report</td>
<td>Contractor advises staff that:</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>1. The site is too wet to effectively repair without potential damage.</td>
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<td></td>
<td></td>
<td>2. A “No Trespassing” Sign has been posted within the maintenance lane of</td>
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<tr>
<td></td>
<td></td>
<td>ditch 44-3.</td>
<td></td>
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<tr>
<td>July 14</td>
<td>Agenda Item 18</td>
<td>Board was informed that:</td>
<td>Board received the report</td>
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<td>1. The culvert was in.</td>
<td></td>
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<td></td>
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<td>2. The contractor had begun to clean the ditch but was taking a break to</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>allow the system to drain down.</td>
<td></td>
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<td></td>
<td></td>
<td>3. A “No Trespassing” Sign has been posted</td>
<td></td>
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<tr>
<td>July 21</td>
<td>Certified Letter</td>
<td>Certified Letter (Attached) sent to Georgianne Covey about:</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>1. Project</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>2. District’s right to access and repair ditch 44-3</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>3. Board update tonight</td>
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**Dates of Occurrence**  
Emergency has occurred most recently as a result of the record rain falls in April, May and June, 2014.

**Damages and Extent of Values at Risk**  
Residents upstream from Lexington Ave cited the following:  
Charlie and Louann Cherrier indicated water has been:  
1. Seeping into their basement for the last four weeks,  
2. Approaching surface inundation of their basement door  
3. Approaching inundation of their septic system.

Jerome Berg indicated:  
1. Property flooding to a depth of 20 inches in his back yard.

<table>
<thead>
<tr>
<th></th>
<th>Cherrier</th>
<th>Berg</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Land</td>
<td>73,700</td>
<td>59,500</td>
<td>$133,200</td>
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<tr>
<td>Improvements</td>
<td>215,200</td>
<td></td>
<td>$215,200</td>
</tr>
<tr>
<td>Total</td>
<td>288,900</td>
<td>59,500</td>
<td>$348,400</td>
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Probability of Future Events
Highly probable – Culvert at Lexington acts as an obstruction. As the hydrologic cycle moves towards an apparent wetter condition, flood frequency will most likely increase.

Emergency Actions Taken
1. Three separate deployments of a pump to lower water ponded on the west side of Lexington through the existing culvert to County Ditch 44-3 as a result of additional rainfall.
2. Culvert at Lexington has been lowered

Plan For Corrective Actions:

<table>
<thead>
<tr>
<th>Action</th>
<th>Need &amp; Reason</th>
<th>Responsible Party</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dewatering</td>
<td>Extreme - needed to reduce immediate threat property.</td>
<td>CCWD</td>
<td>$6,000</td>
</tr>
<tr>
<td>Lower Culvert</td>
<td>High - action needed to meet District management objectives and address the situation posing a threat to property.</td>
<td>Anoka County Highway Department</td>
<td>$10,000</td>
</tr>
<tr>
<td>Repair Ditch</td>
<td>High - action needed to meet District management objectives and further address the drainage conditions posing a threat to property.</td>
<td>CCWD</td>
<td>$11,000</td>
</tr>
</tbody>
</table>

Impact of emergency actions on water resources
Removal of surface water has no adverse environmental impact on existing water and related resources

Beneficial and Adverse Effects on Water and Related Resources
Lowering culvert and repairing ditch 44-3 to the original elevations will return the landscape to normal conditions. Any wetland drainage that may occur as a result is exempt because they are unintentionally created. Culvert elevations are now fixed and monumented.

Do Not Exacerbate Present Conditions:
All actions alleviate the current flooding situation

Environmentally Sound
The actions taken are the minimum needed to reduce the risk to life and property
Economically Justified
Values at risk and impaired are 13 times the estimated cost of corrective actions

Financing
Culvert lowering – Anoka County Highway Department
Dewatering and Repair Work – Coon Creek Watershed District Operations and Maintenance Fund

ISSUES/CONCERNS
No Trespassing Sign: On July 9 Staff were informed that a ‘No Trespassing’ sign had been posted on the property line of Georgianne Covey and the proposed maintenance lane adjacent to Ditch 44-3. The contractor and staff were informed that the Sheriff would be called should any work be done on the property

Covey Concerns:

<table>
<thead>
<tr>
<th>Concern</th>
<th>Potential Response</th>
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<tbody>
<tr>
<td>1. Project Opposition</td>
<td>Try to lessen opposition, if not gain support by addressing her concerns.</td>
</tr>
<tr>
<td>2. No Flooding Issue for the Covey’s</td>
<td>Flooding has occurred on the Covey property immediately adjacent to ditch 44-3. The ditch occurs along the property’s southern border in a less-used portion of the property.</td>
</tr>
<tr>
<td>3. Loss of Privacy</td>
<td>It is hoped that any decrease in privacy that may occur will be accomplished through selective cutting immediately adjacent to the ditch.</td>
</tr>
<tr>
<td>4. Impacts on Wildlife</td>
<td>The County Biological Survey shows no Endangered or Threatened species within this area. Impacts would be primarily to song bird habitat and larger fur bearer and game species. All species commonly known to frequent the area would benefit from forest thinning and the creation of edge and transitions even within cover types.</td>
</tr>
<tr>
<td>5. Removal of 120 Trees</td>
<td>We remain unclear as to where this specific number came from. The Ditch inspection, remote sensing data and staff recollection all converge in the forested/scrub shrub plant community with plentiful aspen and soft maple. There is no question that trees will have to be removed. Since this project was not budgeted for 2014 work, it is in the District’s interest to keep tree removal to a minimum both for cost containment and public relations</td>
</tr>
<tr>
<td>6. Cherrier Sway</td>
<td>Mr Cherrier’s file on high water goes back to at least 2008. As</td>
</tr>
</tbody>
</table>
explained to the Board, The District’s proposal was to have the culvert lowered as part of the Lexington Avenue Project. As that project changed scope, this culvert was bi-passed.

Mr Cherrier showed persistence in pursuing several remedies to his situation. The rainfall of 2014 and the rescoping of Lexington Avenue combined contributed to the Emergency nature of this project.

The project is not being paid for through special assessment. The project is being paid for through general tax dollars dedicated to operation and maintenance of the Ditch system.

Ms. Covey indicated that
1. she had contacted the DNR, could not recall who she spoke with
2. DNR did not know about the project
3. she was advised that the project would require a DNR permit.

Staff contacted the DNR Area Hydrologist Kate Drewry on July 16 & 17. Drewry indicated that:
1. She had spoken with Ms. Covey.
2. Her conversation with Covey was more detailed
3. She was somewhat aware of the project through the District minutes
4. Agreed that the District did not need a permit for an emergency repair; because
   a. no State protected waters or wetlands would be drained as a result of the project
   b. the project was within the approved elevations for ditch 44-3

**Drain Down Time:** Staff has used the contractors vacation plans and the need to drain down the project area to attempt to clarify Ms. Covey’s concerns. The lower portion of the project area has dried out considerably. However, the upper portion remains wet and needs to be repaired to accomplish the purpose of the project. While the area is still draining staff is concerned about additional delays to the project and the contractor that could come about as a result of a protracted land dispute.

**RECOMMENDATION**
1. Receive Report
2. Direct staff to contact County Sheriff and proceed with repair
RESOLUTION NO. 14-04

AUTHORIZING EMERGENCY REPAIR WORK TO PREVENT FLOODING ON ANOKA COUNTY PUBLIC DITCH NO. 44-3

WHEREAS, the Coon Creek Watershed District (District) is a metropolitan watershed district with the powers and authorities as set forth in the Minnesota Watershed Law, Minnesota Statutes chapter 103D, and the Minnesota Metropolitan Surface Water Management Act, Minnesota Statutes chapter 103B, to manage the natural resources and public drainage systems within the watershed district; and

WHEREAS, in accordance with the above authorities the District has adopted an approved watershed management plan, and is implementing its water management programs to prevent flooding, protect, preserve and maintain the natural surface water and public drainage systems in the District; and

WHEREAS, the District has been advised of severe flooding within an area of Anoka County Public Ditch No. 44-3 located at Lexington Avenue and 165th in Ham Lake, Minnesota (see map attached); and

WHEREAS, the severe flooding is creating a clear and imminent danger to the health and welfare of the District’s residents, and it is necessary for the District to implement a repair project on that portion of the public ditch system to alleviate the flooding in the subject area.

THEREFORE BE IT RESOLVED that the District Board of Managers authorizes District staff to implement an emergency repair project on that part of Ditch No. 44-3 as determined by District staff and the District Engineer to alleviate flooding and prevent property damage in the affected area.
June 24, 2014

Georgianne Covey
4452 167th Ave NW
Ham Lake MN 55304

RE: Ditch Repair of Anoka County Ditch 44-3

The Coon Creek Watershed District will be repairing Ditch 44-3 on your property in response to flooding of numerous residents.

The repair will be from just east of the Lexington Avenue culvert to approximately 1900 feet west. Trees within 20 feet of the northern ditch bank will cleared. Spoils from the excavation will be side cast within the drainage easement parallel to the ditch.

Work schedule is dependent on weather and site conditions but is anticipated to be completed by August 1, 2014.

If you have any questions regarding the ditch repair, please call Jon Janke or Tim Kelly at 763-755-0975.

Sincerely,

[Signature]

Jon Janke
Operations and Maintenance Coordinator
Coon Creek Watershed District
July 21, 2014

Georgianne Covey
4452 167th Ave NE
Ham Lake, MN 55443

RE: Emergency Ditch Repair of County Ditch 44-3

I have been informed that you have concerns about the above cited project. The Coon Creek Watershed District Board of Managers will be receiving an update on this project at their July 28 meeting. The meeting begins at 7:30 PM and will be held at the Bunker Hills Activity Center, 550 Bunker Lake Bld, Andover, MN

County Ditch 44-3 was established through public petition and hearing in 1905 under Minnesota Statutes chapter 103E (original version at chapter 106). Jurisdiction for management of the Ditch was transferred from Anoka County to the Coon Creek Watershed District in 1963.

The right to access properties and to conduct work in emergency situations such as this is provided by Minnesota Statutes sections 103B.252, 103D.615, 103D.335, 103E.011, 103E.061.

On June 23, 2014 the District Board of Managers:
1. Were advised of the severe flooding that occurred on Ditch 44-3 in May and June
2. Discussed and considered the environmental and public costs and benefits at stake
3. Found that the flooding is creating a clear and imminent danger to the health and welfare of District residents, and
4. Found that it is necessary for the District to implement a repair project on that portion of the public ditch system to alleviate flooding in the area of concern.

Also on June 23, the Board ordered an “emergency repair project” on that part of Ditch 44-3 experiencing flooding and property damage.
- The repair project will be from Lexington Avenue to approximately 1900 feet west.
- Trees within 20 feet of the northern ditch bank may be cleared.
- Soil material from the ditch excavation will be deposited adjacent to the ditch.
- Efforts will be made to minimize disruption and damage to the surrounding water and related natural resources of the area, the land and the environment in the effort to resolve this flooding issue and minimize costs.
- The project will be funded through the District’s established maintenance and repair fund.
- Work schedule is dependent on weather and site conditions, including time to allow the system to drain down in order to prevent additional damage and costs.

If you have any questions or concerns regarding the ditch repair, please feel free to call me at 763-755-0975.

Sincerely,

Tim Kelly
District Administrator