COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: February 9, 2015
AGENDA NUMBER: 8
ITEM: Public Hearing: Abandonment of County Ditch 57-4

POLICY IMPACT: Policy
FISCAL IMPACT: Budgeted

REQUEST
1. Convene public hearing on the abandonment of ditch 57-4
2. Adopt Findings, Conclusions and Order abandoning ditch 57-4

BACKGROUND
These proceeding are being conducted under Minnesota Statutes section 103E.806 Partial Abandonment of a Drainage System.

On December 10, 2014 the District received the attached petition from the City of Andover for the abandonment of County Ditch 57-4.

Abandonment, or more precisely partial abandonment is a process of removing a branch or lateral ditch established and constructed under the drainage law (M.S. 103E) from the County Ditch system. In this case the County Ditch 57 system.

County Ditch 57 and 57-4 were established through citizen petition in 1917. A review of the original plans and later aerial photos show that the original alignment of ditch 57-4 was from Coon Creek and the line dividing sections 28 and 33 of Andover to the west northwest. The ditch was later realigned to run due west along the section line. During the entire history of Ditch 57-4 the ditch was fully contained on the property now owned by the City of Andover.

Criteria: M.S. 103E.806 Subd 1 states that a property owner may petition the Drainage Authority to remove a branch or lateral ditch from the drainage system if:
   1. The portion of the drainage system does not provide a public benefit or utility, and
   2. Does not serve a substantial useful purpose to property remaining in the system if

Given this there are six issues and concerns:
1. Adequacy of Hearing Notice
2. That the water from the petitioner’s property cannot use Ditch 57-4.
3. The property is not benefited by ditch 57-4 and does not use or affect ditch 57-4
4. That abandoning ditch 57-4 will not prejudice the property owners and property remaining within the system
5. That ditch 57-4 does not serve a substantial useful purpose to any property remaining in the system and is not a substantial public benefit or utility
6. Effects of removing property from the drainage system.

ISSUES/CONCERNS

Hearing Notice: Notice of this hearing was mailed to all parties within the Ditch 57 system benefited area (N=4,515 parcels), as required by law, on January 21, 2015. The District also published notice of hearing on its website as required by law.

The District received a total of 16 calls. Once people understood what “ditch abandonment” meant and where it was located there were no further comments. Most people were concerned about impact on the water feature adjacent to their home (a stormwater pond, a wetland, and primarily Coon Creek). When they realized it wasn’t near them, they were satisfied. About 3 thought the idea of open space restored wetland was “a good thing.”

That the water from the petitioner’s property cannot use Ditch 57-4: As stated in the petition, the abandonment of this part of the ditch system is in support of efforts to restore drained/altered wetlands and adjacent uplands within the area of the Woodland Creek Golf Course. As such retention and detention of water on and within the identified area is critical to a successful wetland restoration.

The property is not benefited by ditch 57-4 and does not use or affect ditch 57-4: None of the properties within the area use, or are benefited by the drainage provided by Ditch 57-4. The Ditch was substantially filled or realigned in 1988 for construction of the Woodland Creek Golf Course. Woodland Creek Golf Course was reviewed and approved by the Coon Creek Watershed District on August 24, 1987. It is evident from air photos that the Golf Course neither benefited from, nor used Ditch 57-4 for drainage.

That ditch 57-4 does not serve a substantial useful purpose to any property remaining in the system and is not a substantial public benefit or utility: With construction of the golf course and the resultant loss of a defined drainage ditch there have not been any “public” use or benefit from branch 4 of ditch 57 since before 1988.

Effects of abandoning branch 4 on property within that part of the system: Once this branch ditch is abandoned, subsequent or new efforts and costs to repair or improve the ditch 57 system using the drainage law or assessments under the drainage law for repair or maintenance may not be assessed against the properties within that part of the abandoned system.

Findings and Conclusions: To abandon branch 4 of ditch 57 the Board must make findings and conclude that ditch 57-4

1. Does not serve a substantial useful purpose to any property remaining in the system and
2. Is not a substantial public benefit or utility
Formal findings and Conclusion will be available at the Board meeting

**Order:** The Board must adopt a formal order abandoning ditch 57-4. A formal order will be available at the Board meeting.

**Suggested Agenda for Public Hearing**
1. Convene Public Hearing
2. Staff Presentation of Background
3. Engineer Presentation of Findings and Conclusions
4. Public Comment
5. Board Discussion
6. Discussion of Options for Action

**OPTIONS**
The following options are available to the Board depending on proceedings and public comment:
1. Extend and reconvene the hearing to complete receiving public comment
2. Reject the petition for abandonment
3. Table action until the next meeting pending processing of public comment and review of findings and conclusion
4. Adopt findings and conclusion and order the abandonment of ditch 57-4

**RECOMMENDATION**
1. Convene Public Hearing
2. Review Findings and Conclusions
3. Order abandonment of ditch 57-4

I have reviewed the above report on the abandonment of Anoka County Ditch 57-4 and attest that it is accurate and I agree with its findings, conclusions and recommendation.

Ed Matthiesen, P.E., Coon Creek Watershed District Engineer, MN License 16800
1. Anoka County Ditch No. 57 (CD 57) is a public drainage system located entirely in Anoka County, Minnesota.

2. The undersigned petitioner is the owner of benefited property on Branch 4 of CD 57 drainage system, located in Section 28, 29, 32 and 33, T 32 N, R 24 W.

3. The undersigned petitioner hereby petitions the Coon Creek Watershed District, acting as the drainage authority, to abandon all of Branch 4 of CD 57, located in Section 28, 29, 32 and 33, T 32 N, R 24 W.

4. The petition is offered as a result of efforts being conducted to restore drained/altered wetlands and adjoining uplands on the following described lands; West Half for the SW Quarter of the SW Quarter of Section 28, SE Quarter of the SE Quarter of Section 29, North Half of the NE Quarter of the NE Quarter of Section 32 and the NW Quarter of the NW Quarter of Section 33, Township 32 North, Range 24 West, Anoka County, Minnesota (Project). To facilitate completion of said Project, the State of Minnesota will be securing a perpetual conservation easement over the Project Area.

5. Said petition involves the Drainage Authority’s acceptance for the abandonment of the original, constructed reach of Branch 4 of CD 57 that no longer exists as a result being removed sometime in the mid 1980’s when the property was developed into Woodland Creek Golf Course. The removal of Branch 4 at that time had no formal administrative approval from the Drainage Authority. That because of the current and planned land uses on the petitioner’s property, Branch 4 of the CD 57 drainage no longer serves a useful purpose and does not provide a public benefit and utility.

6. Specifically, the petitioner propose that all 1,951-feet of the originally constructed portion of Branch 4 of CD 57 from Station 0+00 to Station 19+51 be abandoned.

7. That attached, as Exhibit 1 is a map showing the originally constructed location and alignment for Branch 4 of CD 57.

8. That upon abandonment of Branch 4 of the CD 57 drainage system, the responsibility of the Drainage Authority for maintenance of this branch ends.

Dated this 4th Day of December, 2014

City of Andover
City Administrator