

**RESOLUTION #2002-25**

**RESOLUTION TRANSFERRING JURISDICTION OF  
COUNTY DITCH #43 AND COUNTY DITCH #66 (#3)**

WHEREAS, the Cities of Andover, Anoka, Coon Rapids, and Ramsey have entered into a joint powers agreement pursuant to Minn. Stat. §103B.211 establishing the Lower Rum River Watershed Management Commission, which serves as a watershed management organization with the powers and responsibilities set forth in the Metropolitan Surface Water Management Act, Minn. Stat. § 103B.211-103B.251; and,

WHEREAS, the Lower Rum River Watershed Management Commission by letter dated November 21, 2001, initiated a transfer by requesting the Anoka County Board of Commissioners hold a public hearing to consider the transfer of jurisdiction of County Ditch # 43 and County Ditch # 66 (#3) to the Lower Rum River Watershed Management Commission; and,

WHEREAS, under Minn. Stat. §103B.211 in conjunction with Minn. Stat. §103D.625, the Anoka County Board of Commissioners is authorized after a public hearing to transfer control of County Ditch # 43 and County Ditch # 66 (#3) to the Lower Rum River Watershed Management Commission unless it appears that the take over would not serve the purpose of Minn. Stat. Chap. 103D and would not be for the public welfare or be in the public interest; and,

WHEREAS, a public hearing on the transfer of authority for County Ditch # 43 and County Ditch # 66 (#3) was held on February 26, 2002, pursuant to the requirements of Minn. Stat. §103D.625; and,

WHEREAS, the Lower Rum River Watershed Management Commission in conjunction with the City of Ramsey have developed extensive information relative to water, watercourses and the general water conditions and problems in the areas of County Ditch # 43 and County Ditch # 66 (#3) and are in the process of developing plans for future projects; and,

WHEREAS, the transfer of County Ditch # 43 and County Ditch # 66 (#3) would allow expanded options for projects because a watershed management organization has the ability to undertake drainage system projects in a manner that could not be undertaken by the County board acting as a drainage authority; and,

WHEREAS, the transfer of County Ditch # 43 and County Ditch # 66 (#3) is in the public interest and would be for the public welfare:

NOW, THEREFORE, BE IT RESOLVED that, upon adoption of a resolution by the Lower Rum River Watershed Management Commission to accept the transfer of jurisdiction of County Ditch # 43 and County Ditch # 66 (#3), the Anoka County Board of Commissioners orders the Lower Rum River Watershed Management Commission to take over the county drainage systems known as County Ditch # 43 and County Ditch # 66 (#3), together with the right to repair and maintain the drainage systems.

**From:** Pam McCabe  
**To:** Jon Olson; Patsy Anundsen  
**Date:** 2/20/02 10:03AM  
**Subject:** Re: Agenda - Public Hearing - 2/26 - Ditch #43 & #66

1. I have a first draft of a resolution.

The Board can make its decision after the public hearing or at another meeting. It will be up to the commissioners to decide if one of them wishes to proceed immediately.

2. I'd suggest including :

B. 11/21/2001 Ltr. to me from Steve Jankowski

C. 1/10/2001 Ltr. to Steve from Pam McCabe

E. 7/24/2000 Memo to Lower Rum River Watershed from C. Lefevere

>>> Patsy Anundsen 02/19/02 12:54PM >>>

This matter will be on the agenda for Feb 26 going out Thurs.

Two questions:

1. What is the action anticipated to be taken after the public hearing? Motion? Resolution? Other?

2. What gets attached to the agenda in addition to the public hearing notice. I have the following memos:

A. 12/17/2001 Letter to Steve Jankowski from Pam McCabe

B. 11/21/2001 Ltr. to me from Steve Jankowski

C. 1/10/2001 Ltr. to Steve from Pam McCabe

D. Sheet relating to legislation and Elk River

E. 7/24/2000 Memo to Lower Rum River Watershed from C. Lefevere

**From:** Pam McCabe  
**To:** Jon Olson; Patsy Anundsen  
**Date:** 2/20/02 11:00AM  
**Subject:** Re: Agenda - Public Hearing - 2/26 - Ditch #43 & #66

Commissioner Berg indicated that he would like the resolution included with the agenda packet.

**CC:** Jay McLinden

## RESOLUTION #02-

RESOLUTION TRANSFERRING JURISDICTION OF  
COUNTY DITCH #43 AND COUNTY DITCH #66 (#3)

WHEREAS, the Cities of Andover, Anoka, Coon Rapids, and Ramsey have entered into a joint powers agreement pursuant to Minn. Stat. §103B.211 establishing the Lower Rum River Watershed Management Commission, which serves as a watershed management organization with the powers and responsibilities set forth in the Metropolitan Surface Water Management Act, Minn. Stat. §§103B.211-103B.251; and

WHEREAS, the Lower Rum River Watershed Management Commission by letter dated November 21, 2001, initiated a transfer by requesting the Anoka County Board of Commissioners hold a public hearing to consider the transfer of jurisdiction of County Ditch # 43 and County Ditch # 66 (#3) to the Lower Rum River Watershed Management Commission; and

WHEREAS, under Minn. Stat. §103B.211 in conjunction with Minn. Stat. §103D.625, the Anoka County Board of Commissioners is authorized after a public hearing to transfer control of County Ditch # 43 and County Ditch # 66 (#3) to the Lower Rum River Watershed Management Commission unless it appears that the take over would not serve the purpose of Minn. Stat. Chap. 103D and would not be for the public welfare or be in the public interest; and

WHEREAS, a public hearing on the transfer of authority for County Ditch # 43 and County Ditch # 66 (#3) was held on February 26, 2002, pursuant to the requirements of Minn. Stat. §103D.625; and

WHEREAS, the Lower Rum River Watershed Management Commission in conjunction with the City of Ramsey have developed extensive information relative to water, watercourses and the general water conditions and problems in the areas of County Ditch # 43 and County Ditch # 66 (#3) and are in the process of developing plans for future projects; and

WHEREAS, the transfer of County Ditch # 43 and County Ditch # 66 (#3) would allow expanded options for projects because a watershed management organization has the ability to undertake drainage system projects in a manner that could not be undertaken by the County board acting as a drainage authority; and

WHEREAS, the transfer of County Ditch # 43 and County Ditch # 66 (#3) is in the public interest and would be for the public welfare;

NOW, THEREFORE, BE IT RESOLVED that, upon adoption of a resolution by the Lower Rum River Watershed Management Commission to accept the transfer of jurisdiction of County Ditch # 43 and County Ditch # 66 (#3), the Anoka County Board of Commissioners orders the Lower Rum River Watershed Management Commission to take over the county drainage systems known as County Ditch # 43 and County Ditch # 66 (#3), together with the right to repair and maintain the drainage systems.

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on February 26, 2002, at 10:00 a.m., in the county board room of the Anoka County Government Center, 2100 Third Avenue, Anoka, Minnesota, the Anoka County Board of Commissioners will conduct a public hearing to consider the request to transfer jurisdiction of Anoka County Ditch #43 and Anoka County Ditch #66 (#3) in the City of Ramsey to the Lower Rum River Watershed Management Commission. All persons interested in these drainage systems and wishing to be heard are invited to attend and present arguments for and against the proposed transfer of jurisdiction. Any questions regarding this public hearing may be directed to Jon Olson, Public Services Division Manager, 763-323-5789, between 8:00 a.m. and 4:30 p.m., Monday through Friday.

If you need an accommodation such as an interpreter or printed material in an alternate format (i.e., braille or large print) because of a disability, please contact the Anoka County Administration Office at 763-323-5687. (TDD/TTY #763-323-5289)



Robert C. Parta  
Chief Deputy County Attorney



John "Jay" McLinden  
County Administrator

### PUBLISH IN:

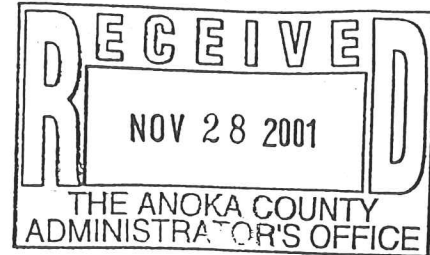
Anoka County Union - February 8 and 15, 2002  
Blaine/Spring Lake Park Life - February 8 and 15, 2002  
Coon Rapids Herald - February 8 and 15, 2002  
Focus Newspapers - Columbia Heights/Hilltop - February 14 and 21, 2002  
Forest Lake Times - February 14 and 21, 2002  
Quad Community Press - February 12 and 19, 2002



LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZATION  
ANDOVER - ANOKA - COON RAPIDS - RAMSEY  
2015 First Avenue • Anoka, MN 55303

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November 21, 2001



Ms. Patsy Anundsen  
Office Administrator  
Anoka County Government Center  
2100 Third Avenue  
Anoka, MN 55303-2265

Subject: Request for public hearing to transfer jurisdiction of County Ditch #43 and County Ditch #66 (#3) to the LRRWMO


Dear Ms. Anundsen:

The LRRWMO, at its November 15, 2001 meeting, approved making a formal request of Anoka County to schedule and hold a public hearing to consider the transfer of jurisdiction for County Ditch #43 and County Ditch #66 (#3) from Anoka County to the Lower Rum River Watershed Management Organization (LRRWMO).

Enclosed for your review is a letter dated January 10, 2001 from Assistant Anoka County Attorney Pamela McCabe which outlines the procedure required to request such a public hearing. In addition, is a letter dated July 24, 2000 from LRRWMO Attorney Charlie LeFevre which addresses issues raised by Anoka County.

The LRRWMO would appreciate receiving notice of the public hearing date so representatives can be in attendance. If you would like additional information, or have questions, please do not hesitate to contact me at (763) 427-1410.

Sincerely,

  
Steve Jankowski *ew*  
Chair

Enclosure: July 24, 2000 Letter from Kennedy & Graven  
January 10, 2001 Letter from Anoka County Attorney  
cc: LRRWMO



# ANOKA COUNTY ATTORNEY

ROBERT M.A. JOHNSON

Government Center • 2100 Third Avenue • Anoka, MN 55303-2265  
[attorney@co.anoka.mn.us](mailto:attorney@co.anoka.mn.us)

Administration / Civil Division  
Family Law & Mental Health Division  
(763) 323-5550  
(763) 422-7589 Fax

Criminal Division  
Victim-Witness Services  
(763) 323-5586  
(763) 422-7524 Fax

Juvenile Division  
Investigation Division  
(763) 323-5586  
(763) 323-5651 Fax

January 10, 2001

Steve Jankowski, P.E.  
City of Ramsey Engineer  
15153 Nowthen Boulevard N.W.  
Ramsey, MN 55303

Re: Request to transfer County Ditch #43 and County Ditch #3

Dear Mr. Jankowski:

I am writing in response to your letter addressed to me, which requested on behalf of the City of Ramsey that a public hearing be held by the County in accordance with Minn. Stat. §103D.625.

Under Minn. Stat. §103D.625, a transfer may be initiated by the managers of a watershed district or by a petition from a person interested in the drainage system. If the Lower Rum River Watershed Management Organization joint board has been given the watershed district authority to accept drainage systems, this joint board would need to take formal action to request the Anoka County Board of Commissioners transfer County Ditch #43 and County Ditch #3.

Minn. Stat. Chap. 103B allows watershed management organizations to accept transfer of drainage systems. Under Minn. Stat. §103B.211, subdivision 1, this power to accept drainage systems is an optional authority, which parties to the joint powers agreement establishing a watershed management organization may choose to give, or not to give, to the joint board established in an agreement.

Minn. Stat. §103B.211, subdivision 1 (4), describes this optional authority as "the authority of a watershed district under section 103D.625, to accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that: (i) projects may be carried out under the powers granted in sections 103B.205 to 103B.255 or chapter 103D or 103E; and (ii) proceedings of the board with respect to the systems must be in conformance with the watershed plan adopted under section 103B.231."

As I indicated in my February 8, 2000, letter to Ramsey City Administrator James Norman, the parties establishing the Lower Rum River Watershed Management Organization did not choose to

include this authority in its joint powers agreement establishing the joint board. The 1985 joint powers agreement specifically left out the authority of a watershed district to accept drainage systems.

I am not aware that the parties to the 1985 agreement (the Cities of Andover, Anoka, Coon Rapids and Ramsey) amended their agreement to permit the joint board to exercise this authority. If the 1985 joint powers agreement to establish the Lower Rum River Watershed Management Organization was amended by the parties, I would appreciate receiving a copy of the amendment.

If the Lower Rum River Watershed Management Organization joint board has not been given the watershed district authority to accept drainage systems, the joint powers agreement establishing the joint board would have to be amended by the parties to that agreement to include this authority before County Ditch #43 and County Ditch #3 could be transferred to the Lower Rum River Watershed Management Organization.

If the Lower Rum River Watershed Management Organization joint board does have authority to accept drainage systems and formally requests the Anoka County Board of Commissioners to transfer County Ditch #43 and County Ditch #3, the County Board would schedule a public hearing. Two weeks published notice is required before the hearing.

At the hearing, any interested person may appear and testify. Following the hearing, the County Board would order the drainage systems to be turned over to the Lower Rum River Watershed Management Organization unless it appears that the takeover would not serve the purpose of Minn. Stat. 103D and would not be for the public welfare or be in the public interest.

As I previously have indicated, the City of Ramsey could pursue special legislation authorizing transfer of specific county ditches to the City of Ramsey. The language in the special legislation enacted for Elk River in 1995 could be used to develop proposed special legislation. Since this language already was enacted, it should not be difficult to have local legislators sponsor, and have the legislature pass, such a bill.

Since the City of Ramsey neighbors the City of Elk River, your city may be envisioning something similar to what the City of Elk River is doing with its county ditches. Minn. Laws 1995, chap. 175 (copy attached), provides that the City of Elk River can manage surface water within the area served by the ditch or portion of a ditch so conveyed pursuant to Minnesota Statutes, chapters 412 and 444.

The City of Ramsey apparently is contemplating sewer work in these drainage systems. While this work can be authorized under special legislation such as Minn. Laws 1995, chap. 175, it may not be authorized under the watershed management laws.

Projects in drainage systems transferred to a watershed management organization under Minn. Stat. §103B.211 and §103D.625 may be carried out only under the powers granted in sections 103B.205

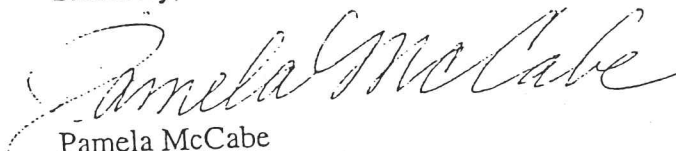


to 103B.255 or chapter 103D or 103E. Looking at the Lower Rum River minutes from the August 17, 2000, meeting, special legislation may be more appropriate for the work that the City of Ramsey wishes to undertake.

In its legislative packet, the Association of Minnesota Counties is supporting enacting legislation under the Local Water Planning Act that voluntarily allows counties to transfer drainage systems to storm water utility districts. The City of Ramsey may wish to encourage the League of Minnesota Cities also to support this legislative initiative if it is not already doing so. I anticipate that this legislation, if enacted, would authorize the work that the City of Ramsey is contemplating.

This letter in no way represents that the County does not support transferring these County ditches. I would be willing to attend the Lower Rum River Watershed Management Organization joint board meeting to explain the issues and procedure if that would be useful for the board.

Sincerely,

A handwritten signature in cursive script that reads "Pamela McCabe". The signature is written in dark ink and is positioned above the typed name and title.

Pamela McCabe  
Assistant Anoka County Attorney

cc: Jon Olson, Anoka County Engineer  
William Goodrich, Ramsey City Attorney

bc: Dennis Berg  
Anoka County Commissioner

CHAPTER 175-S.F.No. 1112

An act relating to local government; authorizing Sherburne county to convey certain county ditches to the city of Elk River under certain conditions; granting certain powers to the town of Embarrass.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [SHERBURNE COUNTY; CONVEYANCE OF CERTAIN COUNTY DITCHES TO THE CITY OF ELK RIVER.]

The county of Sherburne may, by one or more resolutions of its board of commissioners, convey to the city of Elk River all of its rights, title, and interests in all or any portion of county ditches numbered 1, 10, 12, 28, and 31.

Sec. 2. [PROCEDURES AND CONDITIONS OF CONVEYANCE.]

The conveyance or conveyances will be effective as of the date of such a county board resolution, provided that the city of Elk River, by resolution of its city council:

- (1) has agreed to accept the conveyance to it of a specific ditch or portion thereof;
- (2) has agreed to assume as of the effective date, all of the rights, title, and interests of the county; and
- (3) has agreed to assume responsibility, under its municipal authority, for management of surface water within the area served by the ditch or portion of a ditch so conveyed.

Sec. 3. [EFFECT OF CONVEYANCE.]

Upon the effective date of a conveyance authorized under this act, with respect to any ditch or portion of a ditch so conveyed:

- (1) the city of Elk River shall hold all of the county of Sherburne's property rights, title, and interests in any ditch or portion of a ditch so conveyed;
- (2) Sherburne county shall have no further responsibility for the ditch or portion of a ditch so conveyed;
- (3) the ditch or portion of a ditch so conveyed shall no longer be subject to the provisions of Minnesota Statutes, chapter 103E, except that any existing drainage liens shall remain in full force and effect until paid or satisfied; and
- (4) the city of Elk River shall manage surface water within the area served by the ditch or portion of a ditch so conveyed pursuant to Minnesota Statutes, chapters 412 and 444, or other applicable law governing management of surface water by cities.

The county and the city may enter into any agreement or issue any document necessary to carry out the purposes of this act.

Sec. 4. [EFFECT ON REMAINING DITCHES.]

This act has no effect upon any ditch or portion of a ditch that is not the subject of an agreement as described in section 2.

Sec. 5. [TOWN OF EMBARRASS; CERTAIN POWERS.]

After March 14, 1989, the town of Embarrass, for all purposes, is deemed to be a town possessing the power enumerated in Minnesota Statutes, section 368.01, which status continues until altered or terminated pursuant to law.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day after the county board of Sherburne county and the city council of Elk River comply with Minnesota Statutes, section 645.021, subdivision 3. Section 5 is effective the day after the town board of the town of Embarrass complies with Minnesota Statutes, section 645.021, subdivision 3.

Presented to the governor May 15, 1995

Signed by the governor May 17, 1995, 1:50 p.m.



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### MEMORANDUM

TO: Lower Rum River Watershed Management Commissioners and Alternates

FROM: Charlie LeFevere *CL*

DATE: July 24, 2000

RE: Transfer of County Ditches

I have been provided with a copy of a memorandum from Pamela McCabe, Assistant County Attorney, to Jon Olson in which she addresses the agreement for the proposed transfer of county ditches to the Commission.

The County Attorney raises two issues in the memo that I should comment on. First, she states that the County should not be a party to the agreement. The first draft of the agreement that was prepared by special counsel for the City of Ramsey made Anoka County a party to the agreement. When I prepared the proposed amendment for the Commission, I did not change this part of the contract. It may be that Ramsey's special counsel felt that the County would be more likely to approve the transfer after a public hearing if it were a party to such an agreement. In any case, if the County does not wish to be a party, I see no reason why the contract should not be amended to remove the County as a party.

The County Attorney also questions whether the Commission's joint powers agreement contains the authority of a watershed district under Minnesota Statutes, Chapter 103D.625 to accept the transfer of a drainage system into the watershed. Although the joint powers agreement does not explicitly specify that the Commission has the authority to accept ditches, it does contain general language which should be sufficient for this purpose. For example, Section VI, Subd. 23 authorizes the Commission to exercise all powers necessary and incidental to the implementation of the purposes and power set forth therein and as outlined and authorized by Minnesota Statutes, Sections 103B.201 through 103B.251. The statutory provisions cited would include the provisions of Minnesota Statutes Section 103B.211, Subd. 1, which states that a joint powers agreement may provide for the authority of a watershed district under Section 103D.625 to accept drainage systems from the County.

Please advise me if it is the position of the Commission that it wishes to pursue the county ditch transfer, and I will prepare an amended agreement which deletes Anoka County as a party.

