

ANOKA COUNTY ATTORNEY

ROBERT M.A. JOHNSON

Government Center • 2100 Third Avenue • Anoka, MN 55303-2265
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

page 3

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,

Pamela McCabe
Assistant Anoka County Attorney

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

Page 2

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



ANOKA COUNTY ATTORNEY

ROBERT M.A. JOHNSON

Government Center • 2100 Third Avenue • Anoka, MN 55303-2265
attorney@co.anoka.mn.us

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

Criminal Division
(763) 323-5586
(763) 422-7524 Fax

Victim-Witness Services
(763) 323-5559
(763) 323-5769 Fax

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

December 21, 2001

Steve Jankowski, Chair
Lower Rum River Watershed Management Organization
2015 First Avenue
Anoka, MN 55303

Re: Request for public hearing to transfer jurisdiction of county ditches

Dear Mr. Jankowski:

In response to my letter dated December 17, 2001, Anoka County has received a copy of the current joint powers agreement for the Lower Rum River Watershed Management Commission.

After reviewing this agreement in conjunction with the Kennedy & Graven memorandum dated July 24, 2000, which indicates that this agreement contains sufficient language to give the Commission authority to accept ditches, the Anoka County Attorney's Office will be recommending that the County Board schedule a public hearing to consider the transfer of jurisdiction for County Ditch #43 and County Ditch #66 (#3) to the Lower Rum River Watershed Management Commission.

The request received from the Lower Rum River Watershed Management Commission will be presented to the County Board so that the County Board can choose a date for the public hearing.

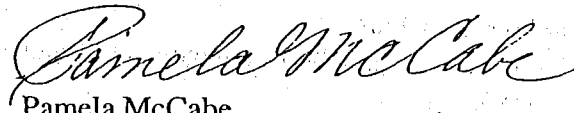
Under Minn. Stat. §103D.625, notice of the proposed transfer with the time and place for the public hearing must be given by two weeks published notice in a legal newspaper of general circulation in the area where the transfer is to occur. I am recommending information on the public hearing be sent to the Cities of Anoka, Andover, Coon Rapids and Ramsey as well as the Lower Rum River Watershed Management Commission.

At the public hearing, all interested persons may appear and be heard. Someone representing the Lower Rum River Watershed Management Commission should appear at the public hearing as well as someone representing the City of Ramsey to describe how activities related to County Ditch #43 and County Ditch #66 (#3) are proposed to be handled if the county ditches are transferred as requested by the Commission.

page 2

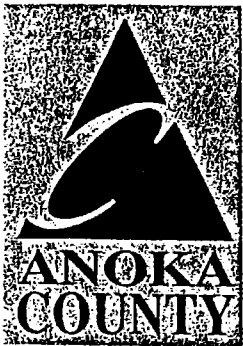
Following the public hearing, the County Board would transfer these ditches to the Lower Rum River Watershed Management Commission unless it appears to the County Board that this transfer would not serve the purpose of Minn. Stat. Chap. 103D and would not be for the public welfare or be in the public interest.

Sincerely,



Pamela McCabe
Assistant Anoka County Attorney

cc: Jay McLinden, Anoka County Administrator
Jon Olson, Anoka County Public Services Division Manager



ANOKA COUNTY ATTORNEY

ROBERT M.A. JOHNSON

Government Center • 2100 Third Avenue • Anoka, MN 55303-2265
attorney@co.anoka.mn.us

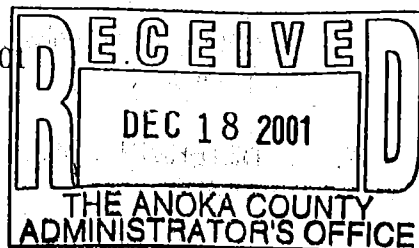
Administration / Civil Division
Family Law & Mental Health Division
(763) 323-5550
(763) 422-7589 Fax

Criminal Division
(763) 323-5586
(763) 422-7524 Fax

Victim-Witness Services
(763) 323-5559
(763) 323-5769 Fax

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

December 17, 2001



Steve Jankowski, Chair
Lower Rum River Watershed Management Organization
2015 First Avenue
Anoka, MN 55303

Re: Request for public hearing to transfer jurisdiction of county ditches to LRRWMO

Dear Mr. Jankowski:

Anoka County received your letter requesting that a public hearing be scheduled to consider the transfer of jurisdiction for County Ditch #43 and County Ditch #66 (#3) to the Lower Rum River Watershed Management Organization. LRRWMO is a joint powers entity established in 1985 by a joint powers agreement under Minn. Stat. §471.59.

This response to your LRRWMO request is premised on the language contained in the original LRRWMO joint powers agreement. If the 1985 joint powers agreement was amended or another agreement replaced the 1985 agreement, please send me a copy of the current joint powers agreement.

A joint powers entity only has authority specified in the joint powers agreement under which it is established by two or more governmental units, in this case the Cities of Andover, Anoka, Coon Rapids, and Ramsey. In addition to other provisions authorized under Minn. Stat. §471.59, a joint powers agreement establishing a water management organization may include the various authorities specified in Minn. Stat. §103B.211. The authority to accept the transfer of drainage systems is an authority permitted to be included under Minn. Stat. §103B.211. This authority was not included in the joint powers agreement establishing LRRWMO.

The choice not to include this authority was made by the governmental units establishing LRRWMO. As a joint powers entity, LRRWMO must operate within those authorities that were given to it by the governmental units establishing LRRWMO as a joint powers entity.

LRRWMO cannot change this choice by its own action. The Cities of Andover, Anoka, Coon Rapids, and Ramsey would have to agree to amend the joint powers agreement in order for LRRWMO to explicitly have the authority to accept the transfer of drainage systems such as County Ditch #43 and County Ditch #66 (#3).

A Kennedy & Graven memorandum attached to the LRRWMO request indicates that general language contained in the joint powers agreement should be sufficient. I did not find the referenced general language in the 1985 joint powers agreement establishing LRRWMO. The memorandum then references Minn. Stat.

PUBLIC HEARING

PROCEDURES

~~Public Hearing Procedures~~

1. CALL: Patsy Elliott, Administration Office Manager, for date & available time for public hearing.
2. DETERMINE: Whether the public hearing must be "set" by the County Board as required by Statute.
 - A. IF YES - Statutes require County Board establish public hearing - PROCEED to #4 below.
 - B. IF NO - Public Hearing should be established by Committee - PROCEED TO #1 below. (Includes hearings for fees, ordinances, etc.)

1. PLACE: on Committee agenda as follows:

"Consider establishing a public hearing for 10:00 a.m. on Tuesday, December 10, 1991, to obtain comment on . . ."

2. DRAFT: Committee report to reflect committee action as follows:

INFORMATION ITEMS

1. *The Committee established a public hearing for 10:00 a.m. on Tuesday, December 10, 1991, to obtain comment on . . . - See attached memo and fee structure.*
3. FORWARD: Committee report to Patsy Elliott, Administration.
4. DEPARTMENT DRAFTS; working with Attorney's Office if necessary, public hearing notice for publication. *Public Hearing notices need to be published for 10 days.*
5. FORWARD PUBLIC HEARING NOTICE: to Patsy Elliott. (Preferably along w/Committee report.) Hearing notice must be separate from Committee report, preferably with note requesting it be processed for publication.
6. Administration Office obtains County Administrator's signature on hearing notice and processes for publication.
7. Office Manager schedules hearing notice for the designated Board meeting and places on agenda.

§103B.211, Subd. 1, as stating that a joint powers agreement may provide for the authority of a watershed district under Minn. Stat. §103D.625 to accept drainage systems from the County.

This is exactly the problem. While this choice is available under Minn. Stat. §103B.211, Subd. 1, the governmental units establishing LRRWMO did not choose to include this authority. Minn. Stat. §103B.211, Subd. 1, indicates an agreement "may provide" this authority. But the LRRWMO joint powers agreement did not provide the authority of a watershed district under Minn. Stat. §103D.625 to accept drainage systems.

Based on legal ramifications involved in actions related to drainage systems, the joint powers agreement needs to explicitly include the authority to accept drainage systems before Anoka County can take action to transfer any drainage system jurisdiction to LRRWMO.

In order for Anoka County to transfer County Ditch #43 and County Ditch #66 (#3) to LRRWMO, the joint powers agreement would have to be amended by the Cities of Andover, Anoka, Coon Rapids, and Ramsey to authorize LRRWMO to accept drainage systems from the County. If the LRRWMO joint powers agreement is amended to provide the authority to accept drainage systems from the County, Anoka County can schedule a public hearing to consider the transfer of County Ditch #43 and County Ditch #66 (#3).

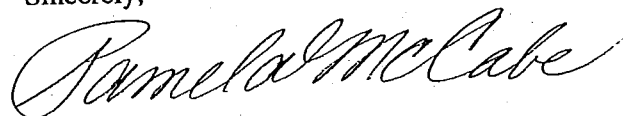
If the joint powers agreement is amended to provide LRRWMO with the authority, the Anoka County Board of Commissioners can order LRRWMO to take over a county drainage system after a public hearing for which proper notice has been given. A takeover can be ordered unless it appears this would not serve the purpose of [Minn. Stat. Chap. 103D] and would not be for the public welfare or be in the public interest.

Under Minn. Stat. §103B.211, subd. 1(a)(4), if LRRWMO has the authority to accept the transfer of a drainage system, projects may be carried out under the powers granted in Minn. Stat. §§103B.205 to 103B.255 or Minn. Stat. Chap. 103D or 103E. Proceedings related to a drainage system undertaken by a joint board must be in conformance with the watershed plan adopted under Minn. Stat. §103B.231.

The expanded options for projects give a watershed management organization the ability to undertake drainage system projects in a manner that could not be undertaken by the County board acting as a drainage authority. A County drainage authority can only act as provided in Minn. Stat. Chap. 103E.

If these ditches were transferred, the City of Ramsey could agree to act for LRRWMO. Any projects would have to be undertaken, whether by LRRWMO directly or by the City of Ramsey acting for LRRWMO, in compliance with powers granted in Minn. Stat. §§103B.205 to 103B.255 or Minn. Stat. Chap. 103D or Chap. 103E.

Sincerely,



Pamela McCabe
Assistant Anoka County Attorney

cc: Jay McLinden, Anoka County Administrator
Jon Olson, Anoka County Public Services Division Manager ✓

12/17/01

Told S.J. that Pam Does NOT Feel or Have evidence that the LRRUWD has submitted its operating agreement to allow them to own the ditches. JPO

Pam will be sending a letter

Pam McCabe:

RE: Attached Lower Rum River Watershed Org Request

HELP!

Can you advise what the next steps are for a committee to consider; i.e., establish a public hearing notice, motion/resolution that would be required, who notified prior to event? after? etc.

Jay has suggested that we then supply this information to Jon Olson (County Ditch Inspector) who would take the matter to the Public Works Committee and involve any commissioner in whose districts the ditches run through such as Berg, McCauley, etc.

If you want to provide this information directly to Jon with a copy to myself and Jay, that would be terrific. Also, if there are others that should be involved in addition to the following that Jay/I are recommending to Jon Olson, I would appreciate your suggestions.

- Jon - suggest you involve D. Fischer as possible future county engineer
- Spencer Pierce - who is involved in Watershed Management Organizations

Patsy
x5687

cc: Jay, Jon

P.S.
Copy of your Letter of January is not too readable - I & others could probably use better copy -
The

RECEIVED	TO: <i>Jon Olson</i>	FROM: <i>Carol Schoff</i>	DATE: <i>12/21/01</i>	TYPE LABEL
	FAX #:	FAX #:	PHONE #:	

Office of the County Board of Commissioners
COURTHOUSE ANOKA, MINNESOTA 55303 612-421-4760

January 22, 1992

MEMO TO: Anoka County Division Managers/Department Heads/Unit Heads
FROM: Jay McLinden, County Administrator
SUBJECT: Public Hearings Held At Board Meetings

Most public hearings which are held during County Board meetings can and should have the meeting date set by the Committee of jurisdiction and record it as an information item. Only those public hearings which need to be "set" by the County Board as required by Minnesota Statute, should be on the County Board agenda for action.

The attached procedure has been drafted for you and your staff to follow when you need to hold public hearings in the future. Please forward this to all appropriate staff.

Your cooperation in following these procedures will reduce the tendency to get into discussions of a public hearing nature prior to the public hearing taking place. If you have any questions, please do not hesitate to contact myself or Patsy Elliott.

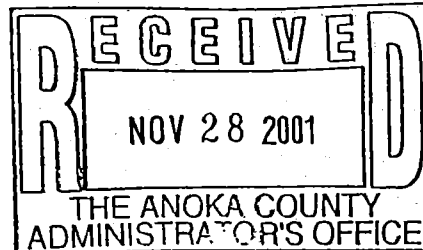
Jay
John "Jay" McLinden
County Administrator

JM:pae
Enclosure

cc: Dee Rosburg, Highway
Rita Williams, Human Services
Jean Ellsworth, Parks

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

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

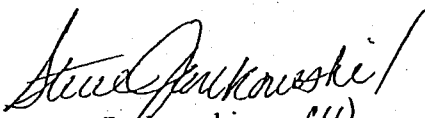
Dear Ms. Anundsen:

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 LeFevere 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.

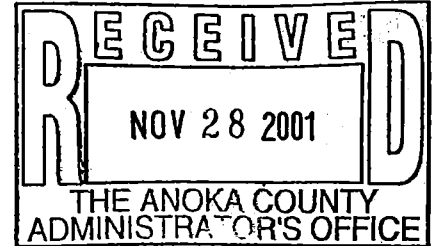
Sincerely,


Steve Jankowski CW
Chair

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

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

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

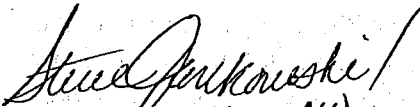
Dear Ms. Anundsen:

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 LeFevere 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 *cw*
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

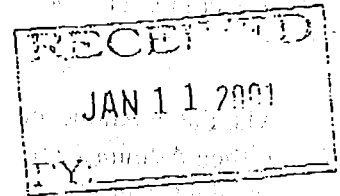
Government Center • 2100 Third Avenue • Anoka, MN 55303-2265
attorney@co.anoka.mn.us

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
Investigator 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



470 Pillsbury Center
200 South Sixth Street
Minneapolis MN 55402
(612) 337-9300 telephone
(612) 337-9310 fax
<http://www.kennedy-graven.com>

CHARLES L. LEFEVERE

Attorney at Law
Direct Dial (612) 337-9215
email: clefevere@kennedy-graven.com

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.

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.

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

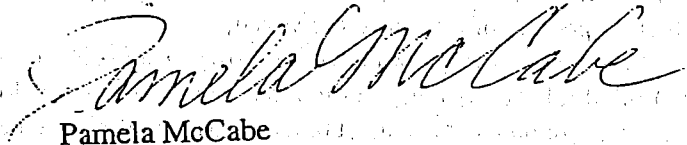
Signed by the governor May 17, 1995, 1:50 p.m.

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,



Pamela McCabe

Assistant Anoka County Attorney

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

bc: Dennis Berg
Anoka County Commissioner