



meeting regarding the proposed recording on January 26, 2011; and

WHEREAS, the Joint Drainage Authority for JCD 5, held a public hearing on February 8, 2011, to consider the recording of its interest in JCD 5; and

WHEREAS, notice was given to the owners of property benefited and/or damaged by the drainage system by mail on February 2, 2011, and by publication in the *Austin Post Bulletin* on January 18, 24 and 31; and

WHEREAS, JCD 5 is a public drainage system consisting of subsurface drain tile, open ditches or both; and

WHEREAS, JCD 5 was originally established by a District Court Order in Mower County which was filed on July 20, 1922, and was subsequently modified by the March 23, 1999, Order Redetermining Benefits and Damages, all according to the laws in effect at the time of establishment of said system; and

WHEREAS, the orders establishing and modifying JCD 5 created permanent right-of-way easements within which the drainage systems would be located, including area to allow for future maintenance and repair of the drainage systems; and

WHEREAS, the drainage system records reflect that damages were paid for the acquisition of right-of-way for JCD 5; and

WHEREAS, by order of the Joint Drainage Authority dated March 23, 1999, the Drainage Authority acquired an additional area, one-rod (16½ feet) in width, adjacent to all open ditch portions of JCD 5 for the establishment and maintenance of permanent, perennially vegetated buffers according to proceedings under the State's Drainage Code; and

WHEREAS, the orders establishing and modifying JCD 5 were never recorded in the office of the County Recorder of Mower County or Freeborn County. Rather, the orders were filed with the Mower County Auditor as required by law; and

WHEREAS, the proceedings to establish and modify JCD 5 affected the acquisition of permanent right of way for open ditch and tile alignments, including acquisition of buffer areas adjacent to the top of open ditches; and

WHEREAS, damages were paid for the acquisition of permanent rights of way; and

WHEREAS, since establishment, the Joint Drainage Authority has regularly inspected and maintained JCD 5 in a manner consistent with the State's Drainage Code; and

WHEREAS, the Joint Drainage Authority has placed assessments upon the properties benefited by the construction, maintenance and improvement of JCD 5, and the owners of those properties, or their predecessors, have paid those assessments in order to maintain their rights in the systems; and

WHEREAS, by order of the Joint Drainage Authority dated March 23, 1999, the Joint Drainage Authority adopted redetermined benefits and damages according to proceedings under the State's Drainage Code; and

WHEREAS, as the Joint Drainage Authority, Mower and Freeborn Counties have, at all times, exercised jurisdiction over JCD 5 in the manner provided for in the State's Drainage Code; and

WHEREAS, the Joint Drainage Authority has regularly accessed JCD 5 for inspection, maintenance and improvement by entering and crossing properties within which the drainage systems are located; and

WHEREAS, the Joint Drainage Authority has performed physical inspection, maintenance, and improvement within the right of way of the drainage systems established and acquired in the proceedings which established the systems; and

WHEREAS, since establishment, JCD 5 has continued to provide beneficial drainage to properties assessed for benefits for establishment, inspection, maintenance and improvement of the drainage system; and

WHEREAS, the Joint Drainage Authority, has maintained continuous possession of JCD 5 by regularly exercising its statutory obligations over the drainage system; and

WHEREAS, the Joint Drainage Authority has determined it to be in the best interests of the properties and the owners of property benefited by JCD 5 to determine and record the right of way occupied by JCD 5 as well as other rights of the Joint Drainage Authority associated with the exercise of its obligations over JCD 5 imposed by and provided for in the State's Drainage Code; and

WHEREAS, the center lines for the easements for JCD 5, depicted on the attached Exhibit "A," are hereby determined to be the duly established center lines of right-of-way easements. The legal description of said center lines are generally described in Exhibit "B"; and

WHEREAS, the Joint Drainage Authority may, after due notice, change the description provided herein in case of error or if more precise information becomes available;

THEREFORE, BE IT RESOLVED, the Joint Drainage Authority for JCD 5, hereby:

recognizes the following interest in JCD 5:

A right-of-way easement for JCD 5 to include the area physically occupied by the open ditch or tile drainage system, a one-rod (16 ½ foot) perennially vegetated buffer strip adjacent to open ditch, and an area of reasonable set-back to protect and provide for maintenance of the drainage system as required by Minnesota Statutes Chapter 103E, together with rights of entry to parcels containing the drainage system for inspection and maintenance

purposes, as well as any and all secondary easements recognized by law and necessary to exercise statutory obligations related to the ditch.

adopts the map (Exhibit A) and legal description (Exhibit B) as the official description of the course and right-of-way for JCD 5;

directs the County Auditor-Treasurer of Mower County to record the map and legal description with the County Recorders of Mower and Freeborn Counties;  
directs the County Auditor-Treasurer of Mower County to record, upon each parcel over or across which the drainage system passes, a notice of the interest of the Joint Drainage Authority in the system by referencing the recorded map and legal description;

directs the Mower County Auditor-Treasurer to provide notice to the owners of property benefited by the drainage system of the action of the Joint Drainage Authority, including notice of the owners' right to appeal;

acknowledges that where the physical location of JCD 5 differs from the map or legal description as adopted herein, the physical location shall govern; and

reserves the right, after due notice, to change the description provided herein in case of error or, if more precise information becomes available, by filing a supplemental resolution.

Unanimously passed and approved this 8<sup>th</sup> day of February, 2011.

**THE FREEBORN MOWER COUNTY JOINT DITCH BOARD**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

Motion made by Commissioner Reinartz, seconded by Commissioner Belshan to approve the minutes of February 8, 2011 subject to review and approval of the chair. Motion carried.

Motion by Commissioner Gabrielson, seconded by Commissioner Belshan to adjourn the meeting at 1:48 p.m. Motion carried.

**THE FREEBORN MOWER COUNTY JOINT DITCH BOARD**

BY: \_\_\_\_\_  
Chairperson

Attest:  
By: \_\_\_\_\_  
Clerk/Coordinator

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