**Suggested Script for Proceedings**:

1. **Call to order**. The drainage authority board is called to order by the Heron Lake Watershed District President who shall state the purpose of the meeting. The petitioner’s attorney should be called upon to make opening remarks regarding the history of the project to the current meeting:

*“****This hearing shall come to order. The Board of Managers of the Heron Lake Watershed District, acting as a drainage authority under Minnesota Statutes, Chapter 103E, will hold a final hearing on the petition to improve Jackson County Judicial Ditch 31, review the petition, the Engineer’s Final Report, the Viewers’ Report, the DNR Commissioner’s Final Advisory Report and take testimony from all interested parties to determine whether to establish the proposed project or dismiss the petition. The board of managers:*** *(identify all board members present by name).* ***A quorum being present, I now declare this meeting to be open.****”*

***The petitioner’s attorney, Jeff Braegelmann, shall now be called upon to review the history of the project and proceedings to date.*** *(After review, attorney returns floor to HLWD President)*

2. **Determine sufficiency of petition and bond.** The HLWD board examines the drainage project petition and determines whether the petition is sufficient. If the petition has been previously determined to be sufficient at the preliminary hearing, this fact should be noted and the HLWD President may note for the record that the board has received no new information which would change the prior sufficiency determination.

*“****The first item of business is to determine the sufficiency of the petition. The petition was previously determined to be sufficient and the board has received no new information which would change that determination. The current bond on file with the petition has a balance of $\_\_\_\_\_\_\_\_\_\_ which is deemed adequate at this time****.”*

3. **Read DNR Commissioner’s report.** The Commissioner of Natural Resources’ final advisory report is read into the record and the HLWD President may invite comments from interested parties or the board.

***“The next item of business is to permit the Commissioner of Natural Resources to give his final advisory report regarding the proposed drainage project. Whereas the Commissioner is not present, I will read the Commissioner’s Final Advisory Report into the record. The Commissioner’s report is dated August 8, 2013, and states as follows:***

*My comments would request more storage on the landscape and more natural stream meanders in the ditch channel design.*

*I find the report adequate and my comments fall under recommendations to be considered but are not mandatory. My hope is that more future projects were expanded in scope to look at the "big picture" of drainage and its impact on our finite water resources.”*

*“****Does anyone have any questions or comments respecting the Commissioner’s Final Advisory Report?****” (After comments, move to close discussion on Commissioner’s report, obtain second, and vote)*

4. **Engineer’s Report**. The project engineer should be called upon to provide a brief summary of the final report and to state on the record:

(1) the total estimated construction cost of the project

(2) whether the proposed project is practical and necessary;

(3) whether the outlet for the drainage project is adequacy;

(4) whether the engineer has any other recommendations relating to the project.

The HLWD President should then invite comments and questions from interested parties or the board to be answered by the engineer.

*“****The next item of business is to receive, review and discuss the engineer’s final report. Duane Hansel of Bolton & Menk, Inc., is the project engineer, and I will now request that he present a summary of the final report, and to specifically review (1) the total estimated construction cost for the proposed project; (2) whether the proposed project is practical and necessary, and (3) whether the outlet for the drainage project is adequate****.” (After presentation by Duane Hansel, HLWD President should inquire:)*

***“Does the engineer have any other recommendations relating to the project?”*** *(After answer by Duane Hansel, HLWD President should inquire:)*

*“****Does anyone have any questions or comments respecting the engineer’s final report?****”*

*Review of the Engineer’s report demonstrates that no soil survey was performed nor requested by the board. There is a risk that, absent a soil survey, there is no way for the engineer to accurately estimate cost of excavation (i.e., costs to remove particularly rocky or heavy clay soils far exceeds excavation costs for normal soil). One of the managers should inquire of the engineer as to whether his experience with this geographic area permits him to accurately estimate the cost of excavation without a soil survey. Also, the engineer should be requested to state for the record the estimated construction cost of the project.*

*(After comments, move to close discussion on engineer’s report, obtain second, and vote)*

5. **Viewers’ Report**. The viewers should be called upon to provide a brief summary of the viewers’ report and to state on the record:

(1) The method used to calculate benefits.

(2) The method used to calculate damages.

(3) The net benefits of the project (benefits minus damages).

(4) Whether the viewers have any other recommendations relating to the project.

The HLWD President should then invite comments and questions from interested parties or the board, to be answered by the viewers.

*“****The next item of business is to receive, review and discuss the viewers’ reports. Ron Ringquist is one of the viewers, and I will now request that he present a summary of the viewers’ reports, and to specifically review: (1) the method used to calculate benefits; (2) the method used to calculate damages, and (3) the net benefits of the project****.” (After presentation by viewer, HLWD President should inquire:)*

***“Do the Viewers have any other recommendations relating to the project?”*** *(After answer by viewer, HLWD President should inquire:)*

*“****Does anyone have any questions or comments respecting the viewers’ final report?****”*

*Separate reports were made pursuant to Minn.Stat. § 103E.321, Viewers’ Report, and Minn.Stat.* § *103E.351, Redetermination of Benefits and Damages. The reports separately determine benefits and damages as follows: (i) the Viewers’ Report respecting the improvement project alone considers benefits and damages to landowners directly affected by the improvement project; and (ii) the Viewers’ Report respecting the redetermination of benefits and damages considers the benefits and damages to all landowners in the entire watershed which was indirectly affected by the drainage project. The total benefits for the drainage project constitutes some combination of the net benefits reported by the two reports.* ***A manager should have the viewer state on the record the total amount of benefits, the total amount of damages and the net benefits (benefits less damages) attributable to the project as the benefits must exceed the damages in order to establish the project.***

*(After comments, move to close discussion on viewers’ report, obtain second, and vote)*

6. **Taking and consideration of testimony by interested persons**. The board next reviews and considers the testimony of interested parties as to the proposed project in general. The board does not need to revisit or reconsider its findings and considerations made at the preliminary hearing.

*“****The next item of business to receive, review and discuss testimony from any interested person relating to the project which has not been previously covered. Does anyone have any questions or concerns.****” (Discuss questions and concerns presented by interested persons, and board members. After permitting all interested parties to speak, discussion on the petition by the interested parties should be closed by motion, second, and vote.)*

7. **Action by the Board**. After closing discussion, the board will normally make its findings and then issue its order dismissing or establishing the project. The board should proceed by motion and vote on each proposed finding until the findings are complete, whereupon the order of the board relating to the petition may be established by motion and vote of the board. In rare instances the board will adjourn the hearing to obtain additional information or to correct omissions or inaccuracies in the engineers or viewers’ reports. The drainage authority shall establish, by order, a proposed drainage project based upon the specific determinations made upon the engineer’s report, the viewers’ report and the DNR commissioner’s report. The order must contain the drainage authority's findings, which will differ depending upon which course of action is to be taken.

***PROPOSED FINDINGS TO ESTABLISH PROJECT:***

**I move that based upon the evidence, the board find that the detailed survey report and viewers' report have been made and other proceedings have been completed under Minnesota Statutes, Chapter 103E;** (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that the reports made or amended are complete and correct**; (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that the damages and benefits have been properly determined;** (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that the estimated benefits are greater than the total estimated cost, including damages;** (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that the proposed drainage project will be of public utility and benefit, and will promote the public health;** (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that the proposed drainage project is practicable;** (Second, waive discussion and vote)

**Based upon the findings, I move that the board issue its order:**

 **(i) containing the drainage authority's findings;**

 **(ii) adopting and confirming the viewers' report as made or amended; and**

 **(iii) establishing the proposed drainage project as reported and amended.** (Second, waive discussion, and vote)

**I move that the Jackson County Auditor be contacted by petitioner’s attorney to confirm the length of time and number of annual statements in which the assessments for the project shall be paid and the interest rate to be borne by the drainage lien, and whether drainage bonds are to be issued to finance the construction, including the rate of interest for such bonds; and that this information be included in the final resolution and order.** (Second, waive discussion, and vote)

**I move that based upon the evidence, the board find that only a separable portion of the existing drainage system will be improved and that this portion also needs repair.** (Second, waive discussion, and vote)

**I move that based on the evidence, the board determine and assess, by order, that the amount of $284,765.00 be allocated as repairs and assessed against all property benefited by the entire drainage system, and that the balance of the cost of the improvement be assessed in addition to the repair assessment against the property benefited by the improvement.** (Second, waive discussion, and vote)

**I move that the attorney for petitioners shall draft the resolution and order establishing the drainage project and forward the draft order to the watershed’s attorney for review. Upon review and approval as to form and content by the watershed attorney, the resolution and order will be considered and adopted at the next open meeting of the board of managers, and duly issued forthwith.** (Second, waive discussion, and vote)

**I move that this hearing be adjourned.** (Second, waive discussion, and vote)