

## History of State Rural Highway 9B, aka Trunk Highway 4, aka CSAH 20

**1914** Original road petition, and County Board voted to establish State Rural Highway 9B.

**1922** Plat of Birchmont Park established along north shore of Lake Bemidji, adjoined by State Rural Highway 9B, aka Trunk Highway 4.

**1924** Road petition change and County Board approved relocation of State Rural Highway 9B and renamed Trunk Highway 4 – lots in Birchmont Park are no longer adjacent to the public road.

Neither of the road petitions specify the width of the highway. At that time, state statute required all established public roads be not less than four rods (66') wide, and may be six rods (99') wide, if requested by petitioners.

**1925** Original developer of Birchmont Park, George and Lida Cochran, deed additional strips of land between the platted lots and the southerly line of Trunk Highway 4, so lots again are adjacent to the public road. The 1925 deeds from George Cochran confirm that the road relocation was complete at this time, stating "...new highway now constructed...". The current road location remains unchanged from the 1924 rebuild.

**1928** Auditors Plat No. 10 established – the lot descriptions in the plat combine the platted lot with the small deeded strip to connect the lot to the public road, for ease in describing the parcels. The plat shows the width of Trunk Highway 4 to be 66' (33' on each side of centerline).

**December, 2018** Current road project added to County Transportation Improvement Plan.

**December, 2023** County Board approval of current road plan and route. Several alternative routes were analyzed, but were not considered viable.

**April, 2024** County received Local Road Improvement Plan (LRIP) grant of \$1,500,000. County will forfeit these funds if not used in 2 years.

**2025 – 2026** Anticipated construction timeline.

## Possible Options to Acquire Right of Way on CSAH 20

**Proceed As-Is** – Based on the road petition and approval of the petition by the County Board in 1924, the County can assert that it already has control of the 66' wide highway corridor and can proceed with the project without seeking consent from the adjoining landowners.

Roads can also be established by use under Statute 160.05. With these roads, the road authority can claim prescriptive rights for the right of way, based on how much land they have used in maintaining road (for at least six years), to establish the right of way width.

**Agreement** – Owners may consent to the right of way of 33' from centerline, and voluntarily sign off, with no exchange of money.

**Marking the Right of Way Line using Statute 160.14** – County can monument/mark the proposed right of way line, and adjacent owners have one year to object.

**Quiet Title Action** – County can file a suit in Court to have the right of way width established.

**Direct Purchase** – County can seek to formalize the right of way by offering compensation to owners in exchange for their consent to the right of way of 33' from the road centerline.

**Condemnation** – If the County seeks to acquire the right of way by Direct Purchase, a condemnation action can be commenced in Court to obtain the right of way for any parcel where the owner does not consent to the Direct Purchase. The County may proceed under the “quick-take” portion of the eminent domain statute and obtain title and possession to the right of way in a relatively short period of time.

## **County's Position on Acquiring the Right of Way**

- Birchmont Beach road was established by petition and county board approval, which established an easement for the current right of way of 33' from centerline.
- The statute in place at the time of the highway construction stated roads established by petition shall be a minimum of 66 feet in width.
- Auditor's Plat No. 10, completed shortly after the relocated highway was built, shows the width of the highway is 66', and all lots within the auditor's plat are located south of the southerly line of the highway.
- Several private surveys prepared along this corridor over the years show the road corridor to be 66' wide.
- The County has continuously maintained the highway since it was established.
- Recent case law found that an owner has notice of a road by the fact that it exists. A good faith purchaser of property has a duty to make inquiry to the road authority to learn more about the road, such as the right of way width.

Based on the above, the County is seeking to acquire/formalize the right of way by the Direct Purchase process, which hopefully is most palatable to the affected owners, and the County feels this process will result in the lowest cost to the taxpayers, and will allow the project to commence in a timely manner.

Title documents show George and Lida Cochran remain as the fee simple owners of area of the highway corridor lying southerly of centerline and north of the north line of Auditor's Plat No. 10, as well as the area lying northerly of centerline in the easterly 650' of Government Lot 3, which is immediately west of the Bemidji Beach plat. The County will commence a Quiet Title action to secure this right of way.