

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
August 18, 2022**

- CALL TO ORDER** The meeting was called to order by President Vavra at 8:02 a.m. Present in the District Office: Linda Vavra, Allen Wold, Jason Beyer, Benjamin Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, and Steven Schmidt. Also present in the District Office: District Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA CHANGES** Upon motion by Deal, seconded by Schmidt and carried unanimously, the agenda was approved with the following additions: Hormann Works claims of \$4,925.00 and \$5,380.00; Permit Application #22-47; JD #14 flood damages; Red River Watershed Management Board Grant Agreement; drainage system outlet conditions.
- CONSENT AGENDA** Upon motion by Dahlen, seconded by Kapphahn and carried unanimously, the Consent Agenda was approved.
- CONFLICTS OF INTEREST** Board Manager Allen Wold declared a conflict of interest on the TCD #11 petition to outlet, and Board Manager John Kapphahn declared a conflict of interest on Lake Samantha.
- #22-104
T. FRISCH
TCD #15
PETITION** Dahlen motioned, seconded by Gillespie and carried unanimously, to open the hearing to consider the petition from Felix Frisch & Sons, Inc. to use Traverse County Ditch #15 as an outlet for the following portion of Parcel #03-0079000 in Section 16, Croke Township, Traverse County: SE1/4. President Vavra opened the hearing. Attorney Croaker read Minn. Stat. § 103E.401, subd. 4. Engineer Engels provided an oral presentation of the existing condition of the ditch system along with a map showing the current assessment district. Landowner Tom Frisch was available for questions about the project. No public comment was presented. The proposed project is located within the TCD #15 drainage watershed. Engineer James Guler described the process to calculate the \$3,317.26 entrance fee and the \$240.00 benefitted amount. Gillespie motioned, seconded by Kapphahn and carried unanimously, to approve the order. Landowner David Rinke asked about the process to clean a public water. Beyer motioned, seconded by Dahlen and carried unanimously, to close the hearing.
- #22-095
T. KEMPER &
G. BLUME
TCD #11
PETITION** Beyer motioned, seconded by Dahlen and carried unanimously, to open the hearing to consider the petition from Todd Kemper to use Traverse County Ditch #11 as an outlet for the following portion of Parcel #10-0019000 in Section 5, Graceville Township, Big Stone County: SE1/4. President Vavra opened the hearing. Attorney Croaker read Minn. Stat. § 103E.401, subd. 4. Engineer Engels provided a map showing the current assessment district and a discussion of the drainage system, demonstrating that the surface water from the parcel drains into TCD #11. Operator Greg Blume was available for questions about the project. Public comment was received from landowner Angela Wold who stated that the drainage system is already full and recommended that the subsurface drainage be directed to the south, into TCD #10. Operator Greg Blume stated that splitting the flow would increase infrastructure and equipment project costs. District Engineer Chad Engels stated that requiring an applicant to split surface flow and subsurface flow between two different drainage ditches would be a departure from District policies. Landowner Allen Wold stated that current District policies (including benefits) are based on surface drainage conditions, and that the policies should be updated to address subsurface drainage opportunities across a watershed. Engineer James Guler described the process to calculate the \$3,673.49 entrance fee and the \$400.00 benefitted amount. Schmidt motioned, seconded by Dahlen, to approve the order. District Engineer Chad Engels stated that, if this were a new parcel being added from outside the watershed into the drainage system, that the petition would likely be denied; however, the proposed project was found to be located within the TCD #11 drainage watershed. Roll call vote: Kapphahn – aye; Schmidt – aye; Dahlen – aye; Vavra – aye; Beyer – aye; Deal – aye; Wold – abstained; Gillespie – aye; Brutlag – aye. Motion carried. Beyer motioned, seconded by Dahlen and carried unanimously, to close the hearing.
- #22-147
BIG STONE
COLONY** Contractor Max Fuxa and permit applicant Tom Hofer were available for questions about their proposed project to install a 36" non-perforated tile to deliver flow from a pond control structure to Big Stone County JD #4. Landowner Don Stueve stated that JD #4 is in poor condition and would not be able to handle the accelerated flow velocity from the proposed tile. District Engineer Chad Engels stated that, in general, the JD #4 watershed drainage infrastructure is undersized. Board managers discussed

the possibility of an operation plan. Upon motion by Schmidt, seconded by Dahlen and carried unanimously, the application was tabled.

**#22-147
B. FUHRMAN**

Landowner Bill Fuhrman was present to answer questions about the proposed project. The permit application was brought to the board because a portion of the subsurface drainage proposed crosses a subwatershed boundary (approximately 20 acres). The project will have a gravity fed outlet and will be controlled by a ¼" drainage coefficient. Landowner Bryan Crandall stated concerns that the receiving public water has not been cleaned-out, and the addition of the proposed project will increase flooding on downstream lands. District Engineer Chad Engels presented two options: require that the applicant install controls (ie lift station) or require that the applicant remove the portion of the project that is outside the subwatershed. Landowner Bill Fuhrman was agreeable to the second option. Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the permit is approved with the removal of subsurface drainage to portions found in the field to be beyond the subwatershed boundary.

GCD #8

No update.

GCD #21

Engineering plans have begun.

TCD #35

Upon motion by Beyer, seconded by Kapphahn and carried unanimously, Pay Application No. 2 in the amount of \$423,431.38 was approved.

WCD #SUB-1

Staff found the WCD #Sub-1 petition and bond to be sufficient for the requirements of statutory drainage system improvement requirements; authorization for signature of the Order Appointing the Engineer and the Engineer's Oath were approved April 21, 2022, contingent upon receipt of the \$20,000 bond. Engineering staff completed the Preliminary Survey and Preliminary Survey Report which was filed with the District Administrator. The District Administrator will deliver the Preliminary Survey Report to the MnDNR in accordance with Minn. Stat. § 103E.251. It is anticipated that the required hearing on the preliminary survey report will be ordered at the September board meeting. Potential viewers will be contacted. Board Manager Allen Wold asked staff to consider recruitment of additional viewer candidates.

JD #6

Engineer James Guler stated that JD #6 has been reseeded with rye in the areas where initial seeding attempts have failed, and that the project close-out process can proceed. It is uncertain if the latest seeding attempt will be successful, however, future reseeding can occur as ditch maintenance until vegetation is established. Upon motion by Gillespie, seconded by Kapphahn and carried unanimously, the Minn. Stat. § 103E.555 public hearing will be scheduled for the Board's September meeting.

JD #14

Engineer Technician Troy Fridgen reported that a post-flood repair is needed on JD #14, following the 2022 spring flood disaster, in an area repaired following the 2019 spring flood. He estimates that the repair could cost \$40,000, but it has been difficult to find an available contractor. Kapphahn motioned, seconded by Dahlen and carried unanimously, to order the repair with a cap of \$40,000.

**DISTRICT
WORKSHOPS**

Administrator Beyer reported that District Workshops were held last week in Campbell, Graceville, and Herman. Attendees included landowners, tile professionals, township officials, and one state senator. Presentations were given by the District's Engineer Technician, Engineer, and Attorney. Because the workshops prominently featured many recommendations to prevent soil erosion into judicial ditches, including buffer establishment and maintenance, the cost of the workshops will be allocated to the District's Riparian Aid account.

**JD #11
103E.555
HEARING**

Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the Minn. Stat. § 103E.555 Public Hearing on the Engineer's Report for JD #11 was opened. Engineer James Guler presented the amounts of Minnesota Legacy Act Clean Water BWSR Grant Funds that have been applied to the District's recent multipurpose drainage management projects (for grant eligible features such as side inlet culverts, berms, and seeding), and the percent of total cost that grants have provided to-date. Up to 75% of costs are eligible for grant funding from BWSR, but due to the competitive nature of the grant, project applications have sought varying levels of funding in order to secure an award – as stated at the September 16, 2021 board meeting, project close-out calculations include an additional \$21,005.06 – which will be transferred from the BdSWD Construction and Riparian Aid Funds to equalize the percentage of grant funding to cover 75% of eligible items for the project. Engineer James Guler stated that the local cost of the project is \$49,449.17 over budget, but this is due to the replacement of the outlet drop structure at the Bois de Sioux River, which was undermining and discovered during construction. Landowner Ray Ehlers requested that

side inlet culverts in Section 8 be resurveyed to ensure they were installed correctly. He also voiced a need for at least one additional culvert; Engineer Technician Troy Fridgen stated that he would work with the landowner to get the culvert installed, and reported that he is working with landowners Dean Holtz and Ray Ehlers to have an approach installed and an existing culvert moved. Upon motion by Kapphahn, seconded by Beyer and carried unanimously, the project was closed and the following documents were approved: Change Order No. 10 (the Final Balancing Order) and the Final Application for Payment in the amount of \$14,553.00. Upon motion by Beyer, seconded by Dahlen and carried unanimously, the hearing was closed.

**GENERAL,
CONSTRUCTION &
DITCH BUDGETS,
LEVIES &
ASSESSMENTS
FOR 2023**

Beyer motioned, seconded by Dahlen and carried unanimously, to open the public hearing on the 2023 General Budget, Construction Fund, and the levies for the Drainage Ditch Systems and projects under the Bois de Sioux Watershed District's jurisdiction. Administrator Beyer presented the 2023 General and Construction Fund budgets and corresponding proposed levies. The RRWMB approved a levy at 75% for 2023. Preliminary ditch assessments were also presented, but will not be finalized until a public hearing is held in December. Additional cuts to the General Levy may be considered in December. Motion by Kapphahn, seconded by Dahlen and carried unanimously, to approve the Resolution of Ad Valorem Levy that included a General Levy of \$200,000 and a Construction/RRWMB Levy of \$1,614,065.81. Roll call vote: Kapphahn – aye; Schmidt – aye; Dahlen – aye; Vavra – aye; Beyer – aye; Deal – aye; Wold – aye; Gillespie – aye; Brutlag – aye. Motion carried. The Preliminary Ditch Assessments was presented at \$887,966.18 (this amount includes bond debt service levied by affected counties), but won't be finalized until a hearing later this year. Upon motion by Dahlen, seconded by Deal and carried unanimously, a Resolution to Budget Redpath Impoundment Project Funds was approved, in the amount of \$620,000. Roll call vote: Kapphahn – aye; Schmidt – aye; Dahlen – aye; Vavra – aye; Beyer – aye; Deal – aye; Wold – aye; Gillespie – aye; Brutlag – aye. Motion carried. Gillespie motioned, seconded by Kapphahn and carried unanimously, to close the hearing.

RRWMB JPA

Rob Sip, Executive Director of the Red River Watershed Management Board, gave an update of the organization's activities and also presented the latest draft of the Joint Powers Agreement. Attorney Lukas Croaker presented edits, and board managers requested that the edits be made prior to consideration by the board for approval.

**REDPATH &
MUSTINKA
PROJECTS**

State employees have indicated that Advisory Reports will be provided on or before August 26, 2022. Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the Minn. Stat. § 103D.605 project hearing for the Redpath Flood Impoundment and Mustinka River Rehabilitation is set for the Board's September meeting, pending receipt of the Advisory Reports.

**LAND
ACQUISITIONS**

Board managers discussed whether the District should participate in an upcoming auction for land in Section 20 of Redpath Township; board managers stated that, without an imminent project, it does not seem prudent at this time to consider a purchase. Board Manager Scott Gillespie requested that, beginning in December, each month the District conduct a formal evaluation regarding lands the District currently owns that are outside the footprint of an active project.

**DORAN CREEK
PROJECT**

A landowner meeting was held to discuss the Doran Creek Restoration Project – all landowners who would be included in the water management district were invited; no opposing comments were provided by those in attendance. Staff discussed three initiatives, with separate timelines, that need to be coordinated together in order for the project to be successful: establishment of a water management district, securement of state easement program funding, and project engineering.

**LTWQIP NO. 1
PHASE #3**

The District received advisory reports from the DNR and BWSR. A 404 permit with a condition was provided by the US Army Corps of Engineer (USACE), upon communication with USACE staff, this condition was determined to be from a previous USACE project manager and the new project manager stated this condition has been met and would be sending a letter to that effect. Beyer motioned, seconded by Dahlen, to approve the Resolution Setting the Minn. Stat. § 103D.605 Project Hearing. Roll call vote: Kapphahn – aye; Schmidt – aye; Dahlen – aye; Vavra – aye; Beyer – aye; Deal – aye; Wold – aye; Gillespie – aye; Brutlag – aye. Motion carried. The hearing will be held at the Board's September meeting. Upon motion by Deal, seconded by Beyer and carried unanimously, the Red River Watershed Management Board Water Quality Program Funding Agreement in the amount of \$1,200,000 was approved.

640TH AVE

Interstate Engineering has completed its design, and intends to meet with District engineering staff and township officials.

**JCWMP WBIF 1 &
WBIF 2**

Board managers reviewed information about the Joint Comprehensive Watershed Management Plan grants. A payment was included in the meeting's claims to West Otter Tail SWCD in the amount of \$15,658.12. Board managers reviewed a summary of the workplan for the second Watershed Based Implementation Funds in the amount of \$1,064,522; upon motion by Gillespie, seconded by Kapphahn and carried unanimously, the Grant Agreement with the Board of Water and Soils Resources was approved.

**MAWD
RESOLUTIONS**

Board managers reviewed four resolutions to be submitted to the Minnesota Association of Watershed Districts (MAWD): Resolution Clarifying Watershed District Project Establishment with Government Aid or as Part of Plan; Increased Support & Participation for the Minnesota Drainage Work Group; Recommendation to Obtain Stable Funding for the Flood Hazard Mitigation Program; Clarification of the DNR's Ordinary High Water Level Definition. Dahlen motioned, seconded by Kapphahn, to approve submission of the resolutions to MAWD. Roll call vote: Kapphahn – aye; Schmidt – aye; Dahlen – aye; Vavra – aye; Beyer – aye; Deal – aye; Wold – aye; Gillespie – aye; Brutlag – aye. Motion carried.

**2022 CLA
AUDIT**

CliftonLarsonAllen has presented a fee increase of approximately \$2,600 (\$15,450) to prepare the 2022 audited financial statements. Upon motion by Gillespie, seconded by Kapphahn and carried unanimously, board managers requested that a counteroffer be made: a flat \$14,000 for a three year contract.

**PERSONNEL
COMMITTEE –
EMPLOYEE
HOLIDAY**

The Personnel Committee met in response to an employee request to include Juneteenth in the District's handbook of recognized employee holidays. On behalf of the Personnel Committee, Board Manager Scott Gillespie recommended a Floating Holiday policy, with the following restrictions: employees cannot take the same day as a floating holiday; employees cannot use the floating holiday on a meeting of the board; employees must give two weeks' notice to use the floating holiday. District Attorney Lukas Croaker stated that, if the State of Minnesota decides to recognize the Juneteenth holiday in the future as a day on which public business cannot be transacted, it will automatically be added to the list of District employee holidays. Board managers stated that they will review the Floating Holiday policy at that time, if the state adopts the additional holiday.

**OUTLET
MAINTENANCE**

Engineer Technician Troy Fridgen requested that the Policy Committee consider a more formal policy to describe when Construction Funds can be used to clean trees, beaver dams, and sediment downstream of a legal assessment ditch. District Engineer Chad Engels recommended that the policy be accompanied by an annual budget.

**JD #11
CULVERTS**

District Engineer Chad Engels reported that, after reviewing survey data gathered at the close of the JD #11 project, of the approximately 84 side-inlet culverts installed, all except one was sloped correctly from the field to the ditch, one was found to have a flat pitch.

The meeting was adjourned at 1:03 pm.