

**BOIS DE SIOUX WATERSHED DISTRICT  
BOARD MEETING MINUTES  
February 15, 2024**

- CALL TO ORDER** The meeting was called to order by President Vavra at 9:00 a.m. Present in the District Office: Linda Vavra, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt, Jason Beyer, and Allen Wold. Absent: Ben Brutlag. Also present: Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA** Upon motion by Kapphahn, seconded by Wold and carried unanimously, the agenda was approved with the following additions: Amended December Treasurer's Report, Redpath Testing Contract, and People's Bank Depository Designation.
- CONSENT AGENDA** Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the Consent Agenda was approved.
- PUBLIC COMMENT** No public comment was received.
- GCD #21 HEARINGS & ORDERS** Attorney Lukas Croaker presented four orders for consideration with respect to GCD #21: Order Suspending Final Hearing to Correct Procedural Errors; Amended Administrator's Order Designating Viewers' Meeting; Findings and Order Initiating the Redetermination of Benefits and Appointing Viewers; and Amended Findings and Order for Detailed Survey Report. These documents were drafted in response to landowner requests, and the requests of their legal representation. One purpose of these documents is to direct the viewing and engineering teams to provide additional information, including costs for separable maintenance, and a redetermination of benefits and damages of the GCD #21 drainage system before factoring the proposed improvement and/or separable maintenance. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the Order Suspending Final Hearing to Correct Procedural Errors, Amended Administrator's Order Designating Viewers' Meeting, Findings and Order Initiating the Redetermination of Benefits and Appointing Viewers, and Amended Findings and Order for Detailed Survey Report were all approved.
- GCD #3 HEARING ORDER** Engineer James Guler stated that the GCD #3 repair report will be filed with the District presently. Upon motion by Wold, seconded by Kapphahn and carried unanimously, the Order for Public Hearing on the Repair Report was approved; the public hearing will be held March 21, 2024 at 10:00 AM.
- AREA 2 DITCH INSPECTIONS** Administrator Jamie Beyer stated that last month's ditch inspection authorization was for the wrong zone. Upon motion by Beyer, seconded by Dahlen and carried unanimously, Area 2 drainage ditch inspections were approved.
- RRWMB UPDATE** Rob Sip, Executive Director of the Red River Watershed Management Board, presented recent and historical benefits of membership, including recent project funding for development of the Doran Creek Stream Rehabilitation, Lake Traverse Water Quality Improvement, Mustinka River Rehabilitation, and Redpath Flood Impoundment.
- REDPATH PHASE 2 B BIDS** Engineer James Guler discussed the bid opening held February 1, 2024, for construction of Redpath Phase 2B construction. Two bid alternatives were available to contractors – the difference between the two alternates was a 1-year completion or a 2-year completion deadline. Northern Lines Contracting, Inc. was the apparent low bidder for the 2-year completion deadline; the apparent low bidder for the 1-year completion deadline was John Riley Construction, Inc. at a cost of approximately \$70,000 more than the 2-year completion deadline. Engineering staff recognize that the two-year option to complete the project will add significant expenses for engineering services and site inspections; a conservative estimate is that the District would spend at least \$300,000 in additional expenses (for eg, engineering, inspection, and testing fees) by finishing the project with the 2-year option, and that a more accurate figure could be determined by engineering staff by comparing the statements of cost. A letter was received on February 14, 2024 by legal representation for Northern Lines Contracting, Inc., disputing the completeness of the bid submitted on behalf of John Riley Construction, Inc. – the representing attorney argues that a submission of \$0.00 for the 2-year project deadline is not a responsive bid. Attorney Lukas Croaker discussed concerns related to the clarity of the bid instructions. Dahlen motioned to advertise the project. The motion died for a lack of a second. Attorney Lukas Croaker recommended that the board consider rejection of all bids and to readvertise

the bid proposal with clarification to the bid instructions. Clarification to the bid instructions includes a statement that bidders are not required to bid on both timelines and that the 2-year option will include the addition of a specific, standard monetary amount to each bid for anticipated costs for additional engineering, site inspections, testing, and administration. Upon motion by Wold, seconded by Gillespie and carried unanimously, all bids were rejected, and Attorney Croaker's recommendation to rebid with clarifying bid instructions was approved.

#### **FIVEMILE PILOT PROGRAM**

Upon motion by Gillespie, seconded by Kapphahn and carried unanimously, a contract by Braun Intertec for geotechnical testing services was approved.

Board managers reviewed the draft Public Waters Obstruction Removal Cost-Share Program - Fivemile Creek. Administrator Jamie Beyer recommended that Grant County and Grant SWCD be referenced in Section II, and that a budget of \$45,000 be included in Section VI. Board Manager Kapphahn requested that Grant County Office of Land Management be added to Section II. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously the Cost-Share Program was approved with the changes discussed, and staff are authorized to utilize a landowner agreement based on this document.

#### **BUFFER PREFERRED ALTERNATIVE PRACTICE**

Attorney Lukas Croaker presented a letter received from the Board of Water and Soil Resources dated February 7, 2024 in response to the District's recent approval of a preferred alternative practice. Board managers discussed possible next steps. Upon motion by Kapphahn, seconded by Schmidt and carried unanimously, staff are authorized to coordinate joint meetings with Grant, Traverse, and Wilkin SWCD's, participating board managers, and legal staff.

#### **PEOPLE'S BANK DEPOSITORY**

Administrator Beyer stated that People's Bank at 1900 11th Street North in Wahpeton, North Dakota is offering favorable CD rates above those collected from current approved District depositories. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, People's Bank was approved as a District depository.

Board managers gave an update of the legislative session so far, and the activities of the Drainage Work Group.

The meeting was adjourned at 11:12 am upon motion by Dahlen, seconded by Kapphahn and carried unanimously.