

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
June 15, 2017**

Call to Order 8:00 am Present:
Board members: Linda Vavra, Allen Wold, Doug Dahlen, Jason Beyer, John Kapphahn, Steven Schmidt, Scott Gillespie
Engineer: Jim Guler, Administrator Michelle Swenson, Attorney Tom Athens
BWSR: Pete Waller and Tom Giles

Absent board member: Kurt Erlandson, Jerome Deal

AGENDA Agenda additions: add JD 14, checks to approve written through June 15th, 2017, TCD 52, policy handbook. Motion made to accept the agenda with additions made by Gillespie, second by Beyer, motion carried.

CLAIMS Motion to accept Claims of June 15, 2017 was made by Schmidt, second by Dahlen, motion carried.

JD 14 Athens informed the board that Mr. Lundquist did not dismiss the case, he claims the board will be required to do a redetermination. Lundquist's firm has a history of ongoing litigation and stated the resolved litigation was his first appeal. Therefore, we have no choice but to proceed with our motion to dismiss this appeal which is scheduled for July 17th. Our memorandum and supporting affidavits are complete and will be served and filed tomorrow.

Buffer Strip Discussion

The board is required to make a decision concerning the enforcement of buffer strip today. Tracey Van Barga from Grant County stated Grant County recommends the BdSWD accept jurisdiction for the ditches over which they have authority in Grant County. Vavra believes the BdSWD could be fair and just more so than the State doing enforcement. She said this is a bad law, but we are stuck with it. Wold stated he testified against local control, that people opposed to the buffer might sue the Bois de Sioux Watershed District. Kapphahn said he will support his counties' decision. When asked about the likelihood of a law suit, Giles stated if the claimant files against the statute language the state must defend it, but the most likely outcome will be the enforcement agency must defend decisions. Athens said the watershed has a statutory obligation to follow BWSR as they are the supervising agency, thus they are less independent than the counties which do not have this obligation. Giles stated the APO has a range of options for penalties, they need to be consistent but they do not have to be the same as BWSR recommendations. These range from \$50 to \$200 per month for 6 months, recurrence intervals are in statue language.

Waller said the Department of Revenue will send out money for enforcing agencies in July, this will require proof that the agency is able to enforce. He said what is being considered today is electing enforcement of public ditches, public waters are not within the watershed's purview.

Staples stated the board cannot make good decisions if they are afraid of going to court over every issue. The taxpayers want the watershed to take jurisdiction, it is their obligation. He stated the county takes shoreline and blue lines, the watershed only takes ditches.

Giles said if the money for implementation is not used in one year, it can carry over to the next. If an agency chooses to unelect, it takes 60 days.

Schmidt looks at this as being a mediator in order to help local citizens. He feels it will make ditch enforcement easier for them. He also stated there could be resistance for Redpath funding if the board does not take enforcement.

Gilles made it clear BWSR will require the adopting of policies it feels will cause compliance with the buffer statute and also require said policies be enforced.

Kapphahn called the question. Wold made a motion to refuse jurisdiction, second by Beyer.

Roll call vote:

Kapphahn – No, Schmidt – No, Dahlen – No, Vavra – No, Wold – Yes, Beyer – Yes, Gillespie – No

Motion failed to pass.

Kapphahn made a motion to accept jurisdiction, second by Dahlen.

Roll call vote:

Kapphahn – Yes, Schmidt – Yes, Dahlen – Yes, Vavra – Yes, Beyer – No, Wold – No, Gillespie – Yes

Motion passed.

At 9:55 am Dahlen made a motion to recess the meeting until July 29th, Kapphahn seconded, motion passed.

Call to Order June 29th, 8:00 am Present:
Board members: Linda Vavra, Allen Wold, Doug Dahlen, Jason Beyer, John Kapphahn, Steven Schmidt, Jerome Deal
Engineer: Chad Engels, Jim Guler, Administrator Michelle Swenson, Technician Troy Fridgen, Attorney Tom Athens

Absent board member: Kurt Erlandson, Scott Gillespie

AGENDA Agenda additions: add Don Reffer. Motion made to accept the agenda with additions made by Dahlen, second by Beyer, motion carried.

CLAIMS Motion to accept Claims of June 29, 2017 was made by Beyer, second by Deal, motion carried.

MINUTES Motion to accept the minutes of meeting held on 5/18/2017 was made by Kapphahn, second by Beyer, motion carried.

TREASURER'S REPORT Motion to accept the Treasurer's Report was made by Dahlen, second by Schmidt, motion carried.

ACCOUNTANT'S REPORT Kappahn made a motion that Renee provide a written report no less than one week before each board meeting, second by Dahlen, motion carried. Dahlen made a motion to accept the accountants report, second by Deal, motion carried.

Public Comment Period: No comments were brought forth.

Don Reffer Reffer provides ground applications to control brush, he has completed two years of a three year rotation. He stated JD 14 is out of condition, and TCD 52's north end is also, they both need trees cleared. Reffer works for time and material not to exceed his maximum quote. He did not spray for willows at North Ottawa. Beyer made a motion to get rid of all trees on the North Ottawa property, second by Dahlen, motion carried.

North Ottawa Swenson reported the educational event on June 1 has received extensive media coverage and she has heard many positive comments. Fridgen reported JD 12 Lateral 3 needs a cleanout. Beyer made a motion to cleanout JD 12 Lat 3, second by Schmidt, motion carried. Engels said WSN has provided a draft O&M manual but has not yet completed the record drawings, dam safety closeout, or final report. Swenson was directed to write them a reminder.

Permits 17-032 and 17-033 The outlets for these projects go through a chain of lakes and end up at the railroad culvert which backs water up. Kevin Kotts said the Chain backs up into a lake, and the system is high near Herman. Bruce Freske (USFW) stated rainfall events are occurring more often, and this is a smaller watershed which should all be considered when permitting. Engels stated the watershed has a ¼" drainage coefficient through tiles. The railroad crossing could be an issue we should deal with separately. Vavra stated the applicants are seven miles away from the railroad obstruction and feels they should not be denied their right as they are not adding any additional water to the system. Beyer made a motion to approve both permits, second by Deal, motion carried.

Permit 17-019 is in violation, Swenson was directed to write a letter to have Lampert petition into TCD 37 or promptly remove the tile.

Levies Athens suggested the Drainage Committee be instructed to review the policy on levies. A drainage committee meeting will be set in the near future.

Engineer's Report - see page 1 and 2 of Engineer's Report

Ditch RFM

TCD 52 – Schmidt stated to fix the ditch at the outlet would cost too much and would not last long. The current benefit is \$139,000 which would not be enough to stabilize the outlet. Vavra suggested the watershed either

makes an impoundment there or does a redetermination in order to have the ability to spend enough money to fix the system.

Beyer made a motion to approve TCD 52 request to cleanout Section 19, second by Schmidt, motion carried.

Dahlen made a motion to finish TCD 27 B1 and B2, second by Schmidt, motion carried.

Ditches

TCD 37 – The ditch along the Dumont Road will be seeded to meet the buffer requirement, the completion date for the project is September 15.

JD 11 – A landowner meeting was held June 19, Engels will talk to road authorities concerning some crossings. Beyer made a motion to have Athens draft a petition for a redetermination of JD 11 and mail it to Rod Beyer in Wheaton, second by Deal, motion carried.

TCD 13 – RFM was for 2 miles of cleanout plus a new culvert. The benefit amount is \$6,600. The township will pay for 36' wide pipe, but it will require over 65 feet. Schmidt made a motion to spend up to the benefit amount, Mark Keller can choose either a cleanout or a culvert, second by Beyer, motion carried.

WCD 8– Tom Deal presented a signed petition for repair, including a request for a redetermination of benefits. Engels and Athens recommended the landowners file a petition to abandon lateral 1 that outlets into the Otter Tail River. Athens gave the petition to abandon to Tom Deal. Swenson to schedule a hearing for WCD 8 requiring a notice of ten days in August.

WCD 9 & 10 – A landowner meeting was held June 6, with apparent support for the improvement of both ditches. Improvements require signatures of at least 26% of the landowners, and require bonds or cash to cover all expenses. Athens counseled the two systems consolidate after the improvements are completed. Engels and Athens recommended lateral 1 of ditch 10 be abandoned as it is not properly a part of 10, and actually outlets into ditch 8. Kapphahn made a motion for Athens to draft the petitions for improvement and the petition to abandon lateral 1, second by Schmidt.

Roll call vote: Wold – yes, Deal – yes, Beyer – yes, Vavra – yes, Dahlen – yes, Schmidt – yes, Kapphahn – yes. Motion carried. The three petitions were given to Mark Hasbaargen.

WCD 20 – Two field approaches are to be built requiring two new culverts, the watershed pays the equivalent of a 24" culvert, the township will pay the balance of the replacement. The cost must be negotiated with the township. One additional crossing is through a township road.

TCD 41 – The ditch has already been cleaned. Making it function better would require cleaning 500 feet onto private land, this landowner is concerned about his trees drowning out. Fridgen to speak to both parties to see if they want to clean it themselves.

JD 12 – there is a dangerous spot on Lateral 1 in need of repair. The township should be contacted, they could work with SWCD.

North Ottawa Collector – Needs a cleanout.

Drone Flight – Engels recommended a drone flight of WCD 8, 9, and 10, JD 11, and JD 12 at a cost of approximately \$100 per mile. Beyer made a motion to do so, second by Deal, motion carried. The information will assist with a design for the systems.

Ditch Spraying – Beyer made a motion to use Leo Splonskowski to spray 10 miles of ditches in Inspection Area 1 less the ditches scheduled for retrofits, no other cattail spraying company is approved, second by Dahlen, motion carried. Vavra stated that cattails are a continuing problem, the previous sprayer was not effective.

Ditch Repairs – Engels suggested establishing a program to bring the ditches into repair. This could be done by a combination of strategies including assessing for repairs in advance, and redetermination of the values. Engels, Swenson, and Fridgen will prioritize ditch work by categories and present to the board.

Projects

North Ottawa Impoundment - Swenson to investigate gauges that work with internet rather than satellite and consult with Runestone Telephone.

Redpath Impoundment - Ron Harnack suggested passing a resolution of need before requesting funds. A discussion was held concerning benefits of combining the bypass corridor and the project.

BdS Direct RCPP - The purpose and needs statement was amended, and four alternatives were identified. A landowner meeting for the Brandrup 9 project is scheduled for July 11 to explain the project and process.

Big Lake - The current outlet elevation is 1075. Engels will present the project development scope of work at the next meeting and request the DNR perform the EAW. Swenson to schedule the meeting.

Deal feels the Ortonville project which received funding from the state is not ready to construct, in which case the Redpath Project might get the money. The next RRWMB meeting is July 18th in East Grand Forks.

Beyer would like to update the administration allocation to ditches, Swenson was directed to determine the going rate.

Attorney Update

Athens stated Lundquist would like to dismiss his appeal scheduled for July 17, Kappahn made a motion to have Athens sign the dismissal, second by Dahlen, motion carried.

Athens rate will increase to \$185 per hour next year.

Annual Reorganization

President: President Vavra turned over the gavel to Vice President Wold. He called for nominations to the position of President. Manager Dahlen nominated Vavra as President. Upon motion by Deal, second by Beyer and carried, the Secretary was directed to cast unanimous ballot to Linda Vavra for President.

Vice President: President Vavra called for nominations for Vice President. Manager Dahlen nominated Wold as Vice President. Upon motion by Dahlen, second by Beyer and carried, the Secretary was directed to cast unanimous ballot to Allen Wold for Vice President.

Secretary: President Vavra called for nominations for Secretary. Manager Wold nominated Gillespie as Secretary. Upon motion by Wold, second by Dahlen and carried, the Secretary was directed to cast unanimous ballot to Scott Gillespie for Secretary.

Treasurer: President Vavra called for nominations for Treasurer. Manager Beyer nominated Kapphahn as Treasurer. Upon motion by Beyer, second by Dahlen and carried, the Secretary was directed to cast unanimous ballot to John Kapphahn for Treasurer.

Newspapers: Upon motion by Deal, second by Dahlen and carried, the following newspapers were named as the official newspapers of the Bois de Sioux Watershed District: Wheaton Gazette, The Northern Star, Grant County Herald, The Daily News, The Daily Journal, The Chokio Review.

Consultants: Upon motion by Kapphahn, second by Beyer and carried, Thomas C. Athens was hereby appointed as the watershed district attorney. Chad L. Engels and Moore Engineering, Inc. was appointed as the watershed district engineer. Morris & Associates was appointed as the accounting consulting firm.

Depositories: Upon motion by Deal, second by Dahlen and carried, the following businesses were appointed as the official depositories of the watershed district; State Bank of Wheaton, MN, Bank of the West, Wheaton, MN, and Star Bank of Wheaton, MN.

Insurance: Upon motion by Kapphahn, second by Deal and carried, the League of Minnesota Cities was appointed as the insurance carrier of the watershed district, to also include approval of the Waiver Form for Liability Coverage for the district. The Bois de Sioux Watershed District DOES NOT WAIVE the monetary limits on municipal tort liability established by MN Statutes, Section 466.04.

Committees: Upon motion by Deal, second by Dahlen and carried, the committees of the Bois de Sioux Watershed District will remain the same.

Administrator

At the MAWD summer convention, the dues increase and bylaw changes passed.

Swenson was directed to write a letter to the Otter Tail County Commissioners stating Erlandson has effectively resigned. They can appoint a representative that lives within the watershed district.

Swenson was directed to updated the policy handbook to say the district follows MN Statutes 103E705 ,subd. 5, 103D641, and 471.345 when doing construction.

Swenson scheduled a JD 12 landowner meeting on July 20th at 2:00 in the Wheaton office.

Dahlen made a motion to adjourn the meeting at 2:40, second by Beyer, motion carried.