

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
March 28, 2019**

- CALL TO ORDER** The meeting was called to order by President Vavra at 9:05 a.m. Present: Linda Vavra, Jason Beyer, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt, and Allen Wold. Also present: Engineer Chad Engels, Engineer James Guler, Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA** Upon motion by Dahlen, seconded by Beyer and carried unanimously, the agenda was approved.
- CLAIMS** Upon motion by Deal, seconded by Dahlen and carried unanimously, the Claims of March 28, 2019 were approved as presented, along with a payment to Olson Excavating in the amount of \$8,163.50 and to Shores Edge Excavating in the amount of \$150.00.
- MINUTES** Upon motion by Gillespie, seconded by Wold and carried unanimously, the Minutes of February 21, 2019 were approved.
- TREASURER'S REPORT** Upon motion by Deal, seconded by Kapphahn and carried unanimously, the February Treasurer's Report was approved.
- PUBLIC COMMENT:
FLOOD
ACTIVITIES** The meeting was opened for public comment. Landowner Larry Schneeberger thanked the board, staff, and specifically Technician Fridgen for the District's response to proactive snow and ice removal in the JD #12 and North Ottawa region. Mr. Schneeberger also thanked the District for holding a pre-flood multi-county meeting with emergency managers, highway departments, and landowners. Fridgen thanked landowners and board managers for phone calls reporting conditions across the District.
- FLOOD 2019
UPDATE** Engineer Engels provided a Flood 2019 update. Ice jams and snow in culverts and drainage systems are resulting in exacerbated flood conditions. If the Redpath Impoundment were built, it would be at least half full of floodwater. The board discussed how stream flow measurements in the spring can be artificially high, due to ice jams and culvert blockages, and that conclusions regarding drainage system effectiveness should not be made, as drain blockages will distort flood conditions.
- WCD #9 & #10
CONSOLIDATION** Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the Public Hearing to Consider Consolidation of WCD #9 & #10, pursuant to 103E.801, was opened. Attorney Croaker presented the formal ditch consolidation process, including the required notification and publication requirements that had been satisfied. Vavra asked for public comments; no public comments were presented. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the Order to Consolidate WCD #9 & WCD #10 was approved and the Board renamed the drainage system to Wilkin County Drain No. 9.
- DITCH REPAIR
MEMO** Attorney Croaker presented a legal memo regarding legal drainage ditch repair processes. In addition to petitioned repairs under Minn. Stat. § 103E.715, the Board is authorized to repair drainage systems under Minn. Stat. § 103E.705. Under Minn. Stat. § 103E.705, the drainage inspector may present an inspection report to the Board and request certain repairs be made to drainage systems. The Board can then approve the repairs so long as the repairs are less than \$1,000 per mile of ditch or under \$175,000.
- PERMIT
#18-109
D. BAKKE &
D. STOCK** The Board reviewed the details of After-the-Fact Permit #18-109, filed by applicant David Stock on behalf of landowner David Bakke. Mr. Bakke joined the meeting by telephone, and Mr. Stock was accompanied by his daughter and bookkeeper Jennifer Frank and tiling operator Jeff Berg. Uphill neighbors Scott and Denise Juven were also present. Mr. Stock described a number of unpermitted activities from 2014 and 2018 completed within the parcel, including a tile line and new inlet. Mr. Stock stated that the property's dike had not been raised from the as-built structure – that the only modification was flatter slopes. Mr. Bakke stated that the dike, standpipe and inlet were existing structures, built before the 80's. Mr. Stock stated that he is losing 100 acres a year from flooding and that his neighbor Mr. Juven is only losing 4 acres. Mr. Juven was given an opportunity to describe his property, which sits uphill from Mr. Bakke's, and has approximately 100 acres that drains to an 18" road culvert that has a restrictor plate, reducing the size to 15". Mr. Juven stated that, although water should move slowly from his field because of the 18" culvert, instead water is not moving at all, and that although a tightly slotted hickenbottom intake was rising from Mr. Stock's diked inlet, it was covering a completely solid plastic pipe. Mr. Juven also stated that his field is not the only uphill field from Mr. Bakke's property; there are many properties uphill, including other fields that Mr. Stock farms.

During Mr. Juven's report, Mr. Stock interrupted and told Mr. Juven to "shut-up and sit down." President Vavra called for order, but Mr. Stock continued speaking and physically approached the Board. President Vavra called for order several more times, and Board managers ordered Mr. Stock to sit down. Mr. Stock then sat down while continuing to talk over President Vavra. The meeting continued after Mr. Stock allowed Mr. Juven to continue his explanation of how Mr. Stock's unpermitted tile system was negatively impacting his property. Discussion continued back and forth between Mr. Juven, Mr. Stock, and the Board; seeing that nothing was being resolved, Attorney Croaker informed Engineer Engels that he should provide any proposed conditions to the drainage application that may resolve the drainage issues. Engineer Engels began his analysis, stating that some of the work included in this after-the-fact permit would typically not be permitted by the District – specifically, blocking the flow of surface water with a dam and forcing the flow underground into a subsurface system that is undersized for surface runoff. Engineer Engels identified at least three activities that triggered an after-the-fact permit application: 1) the dam; 2) tile installation; and 3) inlet riser upstream of the dam. Engineer Engels provided two conditions for approval of the after-the-fact permit: 1) The height of the Hickenbottom inlet riser shall not be higher than elevation 1,196.5 feet (NAVD 88 Datum) and 2) The existing eight (8") inlet riser and pipe leading from the dam to the first downstream surface inlet shall be replaced with a twelve (12") line.

Engineer Engels stated that an alternative to the two (2) conditions would be to place a condition on the permit that would require the dam to be lowered to an elevation of 1,196.5 feet (NAVD 88 Datum). At this point, Mr. Bakke stated that he would not allow anyone to drain any water onto his property in response to the proposed conditions. Mr. Stock stated that he would refuse to consider either condition. Dahlen made the motion to deny the permit due to Mr. Stock's unwillingness to cooperate with the Board and accept any of the proposed conditions. Motion seconded by Wold. Motion was unanimously carried.

2018 CLA AUDIT Miranda Wendlandt, of CliftonLarsonAllen, presented the 2018 financial statements. Upon motion by Beyer, seconded by Kapphahn and carried unanimously, the 2018 financial statements were approved.

PUBLIC HEARING: BUFFER RULE Upon motion by Dahlen, seconded by Beyer and carried unanimously, Public Hearing on the Riparian Protection and Water Quality Practices Rule (Buffer Rule) was opened. Attorney Croaker explained the rule process and the satisfied notice requirements. No comments were presented. Wold requested that additional time be provided for further comment. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the hearing was recessed and will be reconvened on April 18, 2019, at 9:00 am.

2019 FLOOD PROTECTION WAIBERS Board managers reviewed draft 2019 Flood Protection Waivers for Volunteers and Contractors, prepared by Attorney Croaker. Upon motion by Dahlen, seconded by Beyer and carried unanimously, the forms were approved.

WILKIN SWCD COST-SHARE REQUEST Board managers discussed continued discussion for a funding request from Wilkin SWCD, a cost-share opportunity to install eighteen side inlet culverts with flapgates and berms. The original request was for \$135,270. They are now asking for \$27,474.84 for sites on private land in the District and \$12,254.39 for sites on legal ditches. Board Managers discussed different funding strategies, and emphasized eligibility for EQUIP funds. Schmidt made motion, seconded by Dahlen, to provide cost-share for the 5 sites on legal ditches by splitting costs between the Construction Fund and Ditch Fund, 50/50. Motion carried.

TRANSFER OF FUNDS & OVERALL PLAN AMENDMENT The following two agenda items were tabled until April 18, 2019: authorizing transfer of funds – Culvert Cost Share & Clean Water Retrofit Cost Share and approval of Overall Plan Amendment to add Watershed Management District LTWQIP No. 1.

REDPATH LAND ACQUISITION Board managers discussed the four parcels needed to complete land acquisition for the Redpath Impoundment. Upon motion by Wold, seconded by Dahlen and carried unanimously, Engineer Engels is authorized to contact Tenjum Appraisal Company for appraisal update costs and information, and guidance on pricing for two of the smaller parcels.

NORTH OTTAWA Board managers reviewed and evaluated bid information and NRE benefits for North Ottawa Cells A3 & B3. Upon motion by Gillespie, seconded by Kapphahn and carried unanimously, the Bid #19-51 Alternate from Raguse Family Partnership was approved, which includes a crop restriction of small

grains. Board managers also reviewed a solar energy amendment by EOR. The amendment was tabled.

**BOARD
APPOINTMENT**

Otter Tail County is advertising for a representative to serve on the Board. Committee reports were given, and letters and minutes were reviewed.

Upon motion by Beyer, seconded by Schmidt and carried unanimously, the meeting was adjourned at 12:45 pm.