

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
December 19, 2019**

- CALL TO ORDER** The meeting was called to order by President Vavra at 9:00 a.m. Present: Linda Vavra, Ben Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt, and Allen Wold. Absent: Jason Beyer. Also present: Engineer Chad Engels, Engineer James Guler, Attorney Lukas Croaker, Administrator Jamie Beyer, and Technician Troy Fridgen.
- AGENDA** Upon motion by Schmidt, seconded by Gillespie and carried unanimously, the agenda was approved with the following changes:
- Added: Permit #19-107, Bernard Van Zomeren
Added: TCD #44
Added: Personnel Committee Recommendations for 2020 COLA
- R. VOLD** Manager Gillespie notified the Board that former Board Manager Ronald Vold had passed away, and the Board took a moment to recognize his honorable service.
- CLAIMS** Upon motion by Dahlen, seconded by Gillespie and carried unanimously, the Claims of December 19, 2019 were approved as presented.
- MINUTES** Upon motion by Wold, seconded by Dahlen and carried unanimously, the Minutes of November 21, 2019 were approved.
- PUBLIC COMMENT** No public comment was received.
- PERMIT #19-132
R. RINGGER** Engineer Engels introduced Permit #19-132 on behalf of landowner Robert Ringger. The permit was originally denied because it involves a tiling project that crosses the subwatershed boundary. Gene Mensen stated that a contributing complication to the project design is a rule that tile may only cross CRP one time – and there are several separate parcels of CRP surrounding the project area. Engineer Engels relayed that the appeal is based on two considerations: 1) discharged water from one project subwatershed flows into the adjoining watershed within one mile of the project, and 2) there were no neighbor complaints received. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the appeal was approved and the permit was granted.
- PERMIT #19-107
B. VAN ZOMEREN** Landowner Bernard Van Zomeren appealed a condition placed on Permit #19-107, requiring all lands with dual-wall tile lines included in the permitted project successfully petition into TCD #37. Mr. Van Zomeren requested that the Board reconsider this condition based on the inability of adjoining landowners to utilize and derive any benefit from the underground, solid, non-perforated dual-walled tile. Gillespie made motion, seconded by Kapphahn, to amend the permit and remove the condition. Wold raised concerns that the tile would be taxed and yet would not receive any benefit, constituting a taking. The motion was unanimously approved.
- WCD #9** Riley's have finished construction for the year; the project will resume in 2020. There are approximately 5 miles left of construction. Upon motion by Gillespie, seconded by Schmidt and carried unanimously, Pay Estimate #1, in the amount of \$683,271.35, was approved. Engineering staff received a request to extend the contract deadline and cost, but will present these requests at a future meeting upon consultation with legal.
- TCD #28
HEARING:
STUEVE
PETITION** At 9:30 am, upon motion by Kapphahn, seconded by Gillespie and carried unanimously, the hearing to consider the petition from Mark Stueve requesting authority to use Traverse County Ditch #28 ("TCD #28") as an outlet for portions of the S1/2 of Parcel #11-0020000 (SE1/4 of Section 4, Range 46, Tara Township (T125), Traverse County) and the SE1/4 of Parcel #11-0021000 (SW1/4 Less 48.71 Acres of Section 4, Range 46, Tara Township (T125), Traverse County) was opened.
- 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 and the LIDAR-based watershed. This information confirmed that surface drainage from the proposed project flows to TCD #28 already. Therefore, because the project is not new surface drainage and simply tile drainage from within the existing watershed, subject to the District's policy for tile drainage, that the existing design

capacity of TCD #28 would not be adversely impacted by the tile project. The applicant was not present at the meeting to speak to the project, and no comment was received in opposition. Attorney Croaker read the Order, which included that the outlet fee and benefits were calculated to be \$633.74 and \$120.00, respectively, for Parcel 11-0020000 and \$316.87 and \$60.00 for Parcel 11-0021000. Upon motion by Kapphahn, seconded by Schmidt and carried unanimously, the Order Authorizing the Use of TCD #28 as an Outlet was approved. Upon motion by Gillespie, seconded by Schmidt and carried unanimously, the hearing was closed.

**TCD #44
DRAINAGE
PROBLEMS**

Engineer Engels presented findings on the condition of Traverse County Ditch #44 ("TCD #44"). Currently, TCD #44 does not have the capacity to meet the District's 10-year design flow standard at the outlet reach; the ditch and culvert sizes are inadequate. Consequently, surface water breaks out of the ditch channel and overtops a township road. Also, an existing culvert through a township road does not flow full for the 10-year event because the culvert is too tall and the township road is exceptionally low a short distance south of said culvert. The ideal solution would be to raise the township road and install a new crossing, and replace two culverts with appropriately sized culverts – but this would not address the outlet problems at 12-Mile Creek and its history of creating backwater problems. Schmidt offered to speak with landowners about the findings and report back to the Board.

**PUBLIC
HEARING 2020
BUDGETS,
LEVIES, &
ASSESSMENTS
AND 2019
AMENDED
BUDGETS**

At 10:00 am, upon motion by Gillespie, seconded by Dahlen and carried unanimously, the Public Hearing on the Budgets for the 2020 General Fund, Construction Fund, and the Levies for the Ditch System was opened. Budgets and fund balances for 2019 and 2020 were reviewed, along with the corresponding proposed 2020 assessments and levies. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the amended 2020 General, Construction, and Ditch budgets were approved. Kapphahn made motion, seconded by Schmidt, to approve the Resolution of Ad Valorem Levy Tax with a \$250,000 General Fund ad valorem levy tax and a \$1,632,064.83 Construction Fund ad valorem levy tax. Roll call vote: Brutlag – aye, Kapphahn – aye, Schmidt – aye, Dahlen – aye, Deal – aye, Wold – aye, Gillespie – aye. Next, the 2020 Drainage Ditch Assessments were reviewed, with updated figures presented. The Board discussed a request from a landowner to revisit the interest rate charged for the mainline repair of Traverse County Ditch #37; the landowner had the understanding that the cost of the project would be spread 15 years at 1% interest. The Board discussed a need to identify clearly in the future whether projects financed internally will have a fixed or variable interest rate. The Board also discussed how the District's internal interest rate should be calculated on an annual basis. Gillespie made motion, seconded by Dahlen, to approve the Resolution of Ditch Assessment Levies, reinstate the TCD #37 interest rate to a fixed 1%, and appoint Administrator Beyer to identify a standard December index and add 1% to serve as an annual District interest rate. Roll call vote: Brutlag – aye, Kapphahn – aye, Schmidt – aye, Dahlen – aye, Deal – aye, Wold – aye, Gillespie – aye. The Board reviewed the 2019 year-to-date figures and budget information. Upon motion by Gillespie, seconded by Schmidt and carried unanimously, the Amended 2019 Budgets were approved as presented.

**ANNUAL DITCH
INSPECTIONS**

Engineer Technician Fridgen presented an annual drainage ditch inspection report. The Board asked if there would be any additional funding or training needed to complement this work; Engineer Technician Fridgen indicated that he will coordinate a drone purchase and training with staff from Moore Engineering, and plans to shadow the capture of Judicial Ditch #14 footage.

**WCD #8 FINAL
PAYMENT**

Upon motion by Kapphahn, seconded by Schmidt and carried unanimously, the hearing to Consider Acceptance of Contract & Final Payment to the Contractor of Wilkin County Ditch #8 ("WCD #8") was opened. Engineer Guler stated that all contract work and the punch list has been completed. Guler presented the Final Cost Summary. Athens requested comments and/or objections from the public. No comments or objections were given. Engels reported that the contract has been completed in accordance with the plans and specifications. Guler stated that there are some lien waivers that have not yet been returned. Upon motion by Wold, seconded by Gillespie and carried unanimously, the Final Payment, Order, and Waiver of Liquidated Damages were approved contingent upon receipt of all lien waivers. Upon motion by Gillespie, seconded by Wold and carried unanimously, the hearing was closed.

**NORTH OTTAWA
DECLARATION
RECORDED**

The District received notice that an audit had been conducted by the Minnesota Management and Budget Office on some DNR issues, and that it was discovered that a necessary real estate declaration had not been recorded for North Ottawa lands purchased by the District with the use of State grant funds. Attorney Croaker read the required real estate declaration. President Vavra asked if it was possible that the parcels described were purchased with funds through the Red River Watershed Management, instead of State grant dollars. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the declarations were approved for recording upon final verification that lands were purchased by State grant funds.

**SCHMIDT
LEAVES**

Board Manager Steven Schmidt left the meeting.

**REDPATH
UPDATE**

Engineering staff will complete the Engineer's Report for Redpath in a month; the last item to be put together is the estimate of cost. Over the past year, there has been a significant design change to the inlet structure, which has been negotiated with the DNR. Previous NRE focus had been originally placed on northern pike spawning, but the impoundment's design would have caused fish trapping and spawning problems; the focus of NRE goals have changed to wildlife. The inlet structure is designed to direct the lowest stream flows to the meandering by-pass channel, excess floodwater is then pushed to the impoundment. The previous inlet design caused a velocity concern that adversely impacted fish passage, created excessive sediment accumulation in the upstream channel, and diverted too much flood volume around the impoundment. The newly designed inlet structure will reduce the frequency of high-velocity problems, which has a positive effect on the condition of the meandering channel. The impoundment will be as passive as possible, with little manual operation. The exception will be an adjustable inlet weir, which will have a bladder to raise and lower the height of the weir crest by 3'. No life span of the bladder was available. These changes in design and permitting are being vetted on a regular basis with the Fergus Falls DNR team. Unfortunately, the permits cannot be finalized until land acquisition is complete; land acquisition may take place in January.

**DNR PRESENTS
12/9/19 NORTH
OTTAWA LETTER**

DNR Northwest Regional Director (do you want her name?) and Northwest Regional Manager John Williams presented a letter dated December 9, 2019 that states that the use of farming in six cells, "continues to be inconsistent with the 1998 Red River Basin Flood Damage Reduction Work Group Mediation Agreement, the 2001 Environmental Assessment Worksheet and Record of Decision for the project, the state bonding mechanism used to fund the project, representations made to the Minnesota Legislature at the time the project was funded, and the natural resource management purposes for which the cells were constructed. Specifically, these cells were constructed to develop significant habitat for wetland species.... After all of these efforts, we find ourselves in the disappointing position of informing you that, should the District continue to farm more than two cells of the North Ottawa project, the DNR will not recommend or advance any further state investment in flood control projects within the Watershed District." Director Ebbenga and Manager Williams apologized for the 10-month delay in correspondence with the District over this matter. Deal disagreed with the assertion that farming was not part of the original operation and maintenance plan, and stated that he had given testimony that farming would be used to fund operation and maintenance activities. Director Ebbenga expressed her commitment to figuring out why board managers, landowners, legislators, and DNR officials have different understandings of how cells were to be used at North Ottawa. Kapphahn expressed frustration in the DNR's arbitrary judgements that current NRE's are inadequate without any scientific data to support their conclusion. Board managers, staff, and DNR officials expressed concern about ongoing operation and maintenance expenses without promised funding from outside organizations to cover these costs. Technician Fridgen described work completed this year – there are 10 miles of collection ditches that must be maintained, and this year, interior roads needed additional gravel, at an expense of about \$7,200. Director Ebbenga stated that she would arrange a follow-up meeting in February.

**DISTRICT
QUESTIONNAIRE**

Wold introduced a District questionnaire. Upon motion by Dahlen, seconded by Gillespie and carried unanimously, the questionnaire was tabled.

**1W1PLAN
REVIEW**

Administrator Beyer requested that board managers consider how they can be supported through the One Watershed One Plan approval process. In February, it is anticipated that the Board will receive the draft of the plan; it will likely exceed 200 pages. Administrator Beyer received a price quote from consultants at Houston Engineering, to provide a customized presentation of the details of the plan and to give an opportunity for questions and discussion at a cost estimate of \$3,200- \$4,800. Approval of the plan must be coordinated between 13 entities, and approval must be acquired before implementation of One Watershed One Plan grant funds can begin. The One Watershed One Plan is scheduled to receive \$1,064,522 in funding for a two-year period. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the separate meeting with HEI was approved.

**SAMANTHA
LAKE**

No update on Samantha Lake was given; it will be presented at the January 2020 meeting.

BEYER ARRIVES

Board Manager Jason Beyer arrived at the meeting.

**REDPATH LAND
ACQUISITION**

Engineer Engels presented feedback received from landowner Breck Dilly. Upon motion by Deal, seconded by Kapphahn and carried unanimously, the Redpath Committee was asked to review potential land purchase and sale terms proposed by Mr. Dilly.

COST OF LIVING INCREASE The Personnel Committee recommended that the cost of living adjustment for staff increase be set at 3% for 2020. Upon motion by Wold, seconded by Deal and carried unanimously, the 3% COLA was approved.

DRAINAGE WORKGROUP UPDATES Deal gave an update of initiatives by the Drainage Work Group, to permit watershed districts to qualify to borrow general obligation bonds; Deal also notified the Board that the state drainage manual is being revised, and that comments to its revision should be submitted prior to February 10, 2019.

RECESS Upon motion by Beyer, seconded by Dahlen and carried unanimously, the meeting was recessed at 12:10 pm, to be reconvened at 12:30 pm at the Wheaton American Legion to hold the required hearings for the repair and redetermination of Judicial Ditch #11 ("JD #11").

RECONVENED Upon motion by Dahlen, seconded by Beyer and carried unanimously, the meeting was reconvened at 12:38 pm. Present: Linda Vavra, Jason Beyer, Ben Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn and Allen Wold. Absent: John Kapphahn, Steven Schmidt. Also present: Engineer Chad Engels, Engineer James Guler, Attorney Lukas Croaker, Administrator Jamie Beyer, and Technician Troy Fridgen.

VIEWERS IN ATTENDANCE Attorney Croaker introduced the hearing procedures and confirmed that Viewers Dan Swedlund, Loretta Pederson, and Stan Churchill were present. Lead Viewer Swedlund introduced the Viewers' report and methodology.

HEARING PROCESS Attorney Croaker described the formal process, and the Viewers' Report and Property Owner's Report were reviewed. The Viewers' report sets an updated monetary maximum limit for ditch construction, assigns a proportion of ditch expense (as a percentage) that each benefited 40-acre parcel is responsible for, and sets the damages payment to landowners for acquisition of temporary and permanent easements. Factors affecting these figures are the proximity rating and hydraulic efficiency.

JD #11 FINAL HEARING ON REPAIR PETITION, ENGINEER'S REPAIR REPORT AND VIEWERS' REPORT Upon motion by Dahlen, seconded by Gillespie and carried unanimously, the Final Hearing on the Repair Petition, Engineer's Repair Report, and Viewers' Report for Judicial Ditch #11 was opened to public comment and questions. All landowners present were given the opportunity to express their opinion and/or to meet with the Viewers separately. Traverse County Commissioner Tom Monson, Traverse County Commissioner Kevin Leininger, Wilkin County Commissioner Eric Klindt, and Wilkin County Commissioner Dennis Larson were in attendance. Details about the assessment district were given, including compensation for the easements that will be required:

Permanent Ditch Easement	Will apply to the area encompassed by the road, ditch, and buffer. Landowners will be compensated for the amount of this land that is currently being cultivated. They will not be able to cultivate it in the future.
Permanent Spoil Easement	Will apply to the area adjacent to the Permanent Ditch Easement. The land can be used by the District for maintenance, repairs, and spoils, but District activities cannot damage crops without compensation.

BUFFER MAINTENANCE Landowners asked how ditch maintenance would be accomplished for the riparian buffers acquired by the drainage system, as required by state statute; Board managers relayed that the District records an easement to spread spoils, provide inspections and conduct repairs – but, that the property remains in the legal possession of landowners. Noxious weed and cattail spraying would be covered by the drainage system. Viewers will hold office hours in January, and will be available for landowners to meet one-on-one.

BEYER LEAVES Board Manager Jason Beyer left the meeting.

LANDOWNER QUESTIONS Landowners Gary Wawers, Brad Raguse, Steve Weatherbee and Perry Miller requested appointments; all ditch owners will be notified by mail of the opportunity to meet with the Viewers.

REPORTS Tabled Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the Viewers' Report and Property Owners' Report was tabled until January 16, 2020.

JD #11 DETAILED SURVEY REPORT Engineer Guler presented the Engineer's Repair Report, which contains copies of the repair petitions. The ditch was constructed around 1945, no substantive repairs have been made. The 10 mile repair project will make several repairs to the current ditch, including construction to 1) flatten the ditch slope along the road to a 4:1, create a 10' ditch bottom, and use the excavated material to install a ditch berm and a 3:1 ditch backslope.

- REPAIR DESIGN** The overall concept is to restore the ditch to handle a 10-year design event: 3.5" of rain in 24 hours. In its current state, significant portions of the channel and many culverts are in a state of disrepair which is causing excessive flooding in many areas along the course of the ditch. Critical culverts will be replaced to match the design capacity of the system. Engels assured the group that we can plan for flooding conditions that will exceed the 10-year design standard; under those conditions, the repair project will control where flood waters will break-out into the flood plain, at the downstream end of each mile; controlled break-outs will reduce upstream field erosion.
- MN-DOT WORK** This repair is being made in coordination with MnDOT's planned road improvements to Highway 55 and Highway 75, and the design must meet Wilkin County's restriction that the top of a ditch berm must be 6" below the shoulder of the road. Side inlets with flap gates will be installed, and several utility poles will be moved and/or buried.
- COST ESTIMATE** Engineer Guler presented the Engineer's Cost Estimate and reported that the District has been actively seeking outside project dollars, and is currently requesting project grant funds from BWSR, RRWMB, and the District's culvert sizing and clean water cost share policies.
- RECESSED & RECONVENE SET** Upon motion by Dahlen, seconded by Deal and carried unanimously, the hearing was recessed and set to reconvene on January 16, 2020. Upon motion by Dahlen, seconded by Deal and carried unanimously, the meeting was adjourned at 2:50 pm.