

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
April 16, 2020**

- CALL TO ORDER** The meeting was called to order by President Vavra at 8:00 a.m. via conference call and screenshare pursuant to Minn. Stat. § 13D.021. 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, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- ROLL CALL VOTE** President Vavra stated that, because this meeting was being held by conference call and screenshare, all votes would be taken by roll call.
- CONFLICTS OF INTEREST** Kapphahn stated a conflict of interest on the Samantha Lake project.
- AGENDA** Wold motioned, seconded by Kapphahn to approve the agenda. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.
- CONSENT AGENDA** Attorney Croaker introduced the use of a consent agenda which allows routine items to be approved with one motion. Kapphahn motioned, seconded by Dahlen to approve the Consent Agenda. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.
- PUBLIC COMMENT** No public comment was received.
- PERMIT APP #20-023** Engineer Technician Fridgen reported that he has worked-out the details of Permit Application #20-023 on behalf of Jon Pansch, without further Board action needed at this time.
- PERMIT APP #20-035 STUEVE** District Engineer Engels provided an overview of Permit Application #20-035 on behalf of Rick and Terry Stueve, which is before the Board because it involves a project that would allow drawdown of a water body into an adjacent subwatershed. Engineering staff requested input on who should control a gate that would be installed to prevent drawdowns during flooding conditions. Gillespie strongly recommended that neighboring landowners work together to formally define gate operations, but would not want the agreement included in a permit condition. Kapphahn motioned, seconded by Schmidt, to approve the permit application with conditions: 1) that a gate be installed upstream of 530th Street; and 2) a restriction that the gate can only be open upon a defined downstream trigger that staff will develop for incorporation into the permit. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.
- PERMIT APP #20-029 E. BORSHEIM** Permit applicant Eugene Borsheim submitted a petition to have the S1/2SW1/4, Section 34, Range 45, Redpath Township (128N), Traverse County, added to TCD #23. Deal made motion, seconded by Gillespie, to schedule a hearing May 21, 2020. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.
- JD #11 CONSTRUCTION BIDS** District Engineer Engels presented the JD #11 construction bids. The Base Bid specifies a 2021 substantial completion date; the Alternate Bid #1 specifies a November 25, 2020 substantial completion date. Kapphahn motioned, seconded by Deal, to approve Alternate Bid #1 from Hormann Works, LLC in the amount of \$1,010,079.00 contingent upon bonding by Traverse County (to be determined April 21, 2020). Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.
- TCD #8 PETITION HEARING R. MATHIAS PERMIT APP #20-006** At 9:00 am, Gillespie motioned, seconded by Schmidt, to open the hearing to consider the petition from Richard Mathias requesting authority to use Traverse County Ditch #8 ("TCD #8") as an outlet for Parcels #16-0023-000 & 16-0024-000 (Section 7, Range 44, Eldorado Township (126N), Stevens County). Based on landowner complaints, Wold motioned, seconded by Dahlen, that the hearing be postponed until it can be conducted in-person. Gillespie respectfully acknowledged the concerns, but responded that, at this time, we do not know when that would be possible, and that landowners were able to submit comments by participating in the hearing by phone and in writing. Roll call vote: Gillespie – open hearing, Wold – postpone hearing, Deal – open hearing, Vavra – open hearing, Dahlen – open hearing, Schmidt – open hearing, Brutlag

– open hearing, Kapphahn – open hearing. The motion to postpone the hearing failed. President Vavra opened the meeting. Attorney Croaker read Minn. Stat. § 103E.401, subd. 4. Engineer Engels provided an oral presentation of the existing condition of the TCD #8 ditch system along with a map showing the project. Engineer Engels stated that the existing ditch capacity is smaller than the current 10-year design standard typically used for new projects and improvements. However, this is typical of older ditch systems and the ditch was designed for the purpose of conveying runoff from the watershed, including those portions of the watershed located in Stevens County not in the benefitted area such as the property in Section 7 of Eldorado Twp. Engineer Engels stated that the change in runoff volume that may or may not be caused by a drainage project is the first consideration. The project proposed in Permit Application No. 20-006 is located in the existing watershed of TCD #8 and therefore does not increase the watershed area draining to the ditch system and the change in total runoff volume is likely to be insignificant. Engineer Engels continued that the rate of runoff is the second consideration. Projects which accelerate runoff, such as surface drainage improvements that lower culverts, increase culverts, or increase channel conveyance, are red flags and would be extremely difficult to permit in this particular watershed. However, this is not a surface drainage project, it is a subsurface drainage project. This is a controlled subsurface drainage project that meets the District’s design policies that address potential adverse impacts. Additionally, there are times when a project of this type may have a positive impact on the drainage system’s peak flows by delaying seasonal run-off timing. The applicant was present and did state that he believed the controlled drainage would help alleviate some of the drainage problems in the area. Nobody from the public spoke against the petition. Gillespie motioned, seconded by Kapphahn, to approve the Order Authorizing the Use of TCD #8 as an outlet. Roll call vote: Gillespie – aye, Wold – nay, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried. Gillespie motioned, seconded by Kapphahn, to close the hearing. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

JD #11

Engineer James Guler presented a \$134,877 price quote from Traverse Electric to bury three miles of electric lines that run N-S along Highway 75. Otter Tail Power Company’s price for relocating a half-mile of distribution line was priced at \$55,000. Kapphahn requested that Board managers and staff expend more effort to negotiate these prices on future projects. Wold motioned, seconded by Gillespie, to approve Traverse Electric’s price quote. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**WILKIN COUNTY
SWCD COST
SHARE PROGRAMS**

Wilkin County SWCD Technician Kimberly Melton provided an update on the District’s side inlet cost-share program. Five of twenty-one side inlets were installed in 2019, and she expects the balance to be installed in 2020. Melton also gave an update of the District’s buffer cost share program, stating that eighteen of forty-six buffer acres have been installed; the balance will be installed in 2020. Melton introduced a new cost-share opportunity, started in 2019 and co-sponsored by the Red River Retention Authority, Wilkin County, and the Buffalo-Red River Watershed: the Wilkin County Cover Crop Incentive Program, and is asking Wilkin County, the Buffalo-Red River Watershed, and the Bois de Sioux District Watershed to each contribute \$25,000 for 2020. In 2019, producers were given \$22 - \$25/acre to seed cover crops for one year, with the opportunity to continue the program for four more years. There were limited eligibility requirements, and 724 acres were planted in 2019. Melton is using the program to build soil structure and reduce erosion in places where traditional crops grow poorly or not at all – areas where soils are heavy with salts, or in low spots. Kapphahn expressed a requirement that the funds be spent within the boundaries of the Bois de Sioux Watershed District. He also voiced concern that the same opportunity be offered to the District’s five other SWCD’s. Schmidt motioned, seconded by Dahlen, that the request be tabled until the next board meeting and that the proposal be presented with additional checks and balances. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**NORTH OTTAWA
LEASE CHANGE TO
VOLD FARMS**

Raguse Family Partnership has withdrawn its \$137.50/acre bid to lease cell B3 of the North Ottawa Impoundment, which included a small grain restriction. The District decided to lease cell A3 instead of B3 (123.4 and 99 acres, respectively). Gillespie motioned, seconded by Deal and carried unanimously, to enter into a lease with Pat and Greg Vold Farms for \$115/acre. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**NORTH OTTAWA
CATTAIL REMOVAL**

****Added 05/21/20:** Correction: Raguse Family Partnership has withdrawn its \$115.00/acre bid to lease cell B3 of the North Ottawa Impoundment, which included a small grain restriction. The District decided to lease cell A3 instead of B3 (123.4 and 99 acres, respectively). The lease agreement with Pat and Greg Vold Farms was for \$99/acre.**

Board managers discussed how cattails will be removed from cells A4 and B4. Engineer Technician Fridgen offered to collect the required burn permits from Grant County, and recommended burning the debris prior to nesting season. Brutlag will contact a chemical representative to get guidance on when treatments should be applied. Kapphahn recommended that the Grant County Fire Department be contacted, to see if they are interested in a practice grassfire burn.

**RFQ FOR
APPRAISAL
SERVICES**

Administrator Beyer presented the response to the RFQ for Appraisal Services, from Neu Real Estate. Gillespie made motion, seconded by Dahlen, to approve the use of Neu Real Estate appraisal services. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**LTWQIP
APPRAISALS**

Approximately two acres will need to be acquired for Phase I of the Lake Traverse Water Quality Improvement Project. Kapphahn made motion, seconded by Gillespie, to notify and gain consent from the affected landowners and have the required parcels appraised. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**REDPATH
PURCHASE
AGREEMENTS**

Attorney Lukas Croaker gave an update on the final four Redpath land purchase agreements:

Mr. Breckenridge Dilly has requested a modification to the verbiage on the purchase agreement, requesting that the full purchase price be listed (as opposed to the purchase price less the 2020 rents received). Gillespie motioned, seconded by Deal, to approve the amendment. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried. Once the agreements are signed, these transactions are ready for closing.

Mr. Richard Mathias is consulting with his tax advisor and attorney, regarding how approved sale proceeds should be divided between 2020 and 2021. Deal motioned, seconded by Wold, to authorize Ohnstad Twichell to draft the subsequent amendment per Mr. Mathias' request. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried. Once the agreements are signed, these transactions are ready for closing.

Mr. Joe Blume has not signed the purchase agreement (reflecting his March 26, 2020 purchase price offer) within the 10-day period required by Board managers. Mr. Blume has stated that his attorney is reviewing the agreement. Gillespie motioned, seconded by Dahlen, to extend the time period on the agreement, due to pandemic work conditions and to authorize Attorney Croaker to contact Mr. Blume to finalize the purchase agreement.

Ohnstad Twichell staff are working with the family of Ms. Marion Bartells to collect the necessary signatures on closing documents.

**REDPATH FDR
GRANT FUNDING
LEVELS**

District Engineer Chad Engels reviewed correspondence from the DNR dated March 19, 2020; April 3, 2020; and April 14, 2020. The original NRE benefits for the Redpath Impoundment were identified as: 1) pike spawning in impoundment pools, 2) waterfowl use of impoundment pools and native plantings, 3) capture of sediments and nutrients in impoundment pools, 4) gradual releases of stored flood water from Pools 1 and 2 to augment stream flows in the Mustinka River downstream of the impoundment, and 5) the meandering bypass corridor. Anticipated performance and function challenges resulted in the abandonment of the pike spawning habitat in final design. With the removal of the pike spawning habitat in favor of shallow flooding and grassland habitat (which included DNR's input), the DNR has determined that the Redpath Impoundment no longer qualifies for a 75% grant cost-share. In their March 19, 2020 correspondence, the DNR sites the need for interior dikes and water control structures that would be required in order to realize additional NRE benefits. The DNR states that adding these features would result in one of three possible outcomes: 1) Additional project funding in an amount that only covers the cost of the added NRE infrastructure, 2) Additional project funding in an amount that pays 1.25 times the cost of the added NRE infrastructure, or 3) Additional project funding based on the NRE value brought by the added NRE infrastructure (the DNR stated that this 3rd possibility is likely not a good fit for the Redpath Project). Engineer Engels stated that the cost of the additional NRE infrastructure is estimated to be \$3 million. Engineer Engels presented preliminary cost estimates for the impoundment assuming a \$20 million construction cost without NRE infrastructure funded at 50% versus a \$23 million construction cost with NRE infrastructure funded at 75%. These estimates were presented as two scenarios serving as bookends of the possible State funding extremes. The Board was informed that moving forward with a project costing \$3 million less funded at 50% would result in an approximate \$4.3 million increase in local cost. Additionally, there will also be an increase to the annual operational and maintenance costs if the impoundment is built

with the DNR's recommended physical and operational changes: there will be less acres that can be leased for income, more maintenance costs, and future replacement costs for physical structures. Gillespie added that there would likely be less water holding capacity for floodwaters. Deal requested that the Red River Water Management Board be notified of this development. Based on the cost concerns of Board managers, District Engineer Engels will proceed based on a 50% cost-share design.

**REDPATH NRCS
GRANT
APPLICATION**

District Engineer Engels described a grant opportunity through the National Resource Conservation Services' Regional Conservation Partnership Program known as the "Alternative Funding Arrangement" issued March 17, 2020. The nationally competitive program will sponsor up to 15 projects with a cap of \$10 million for any individual project. Applications are due May 18, 2020. The District's application would likely cost \$2,500 to assemble. Kapphahn motioned, seconded by Wold, to authorize engineering staff to complete and submit an application. Roll call vote: Gillespie – aye, Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

SAMANTHA LAKE

No feedback has been received from Grant County regarding the Samantha Lake Joint Powers Agreement.

RRWMB UPDATE

The Red River Water Management Board meeting is scheduled for April 21, 2020. The District did submit applications for the Base Funding Grant in the amount of \$100,000 to be used for ditch retrofits in the Rabbit River Watershed including WCD #9 and a \$233,000 Water Quality Grant for the Phase I of the Lake Traverse Water Quality Improvement Project.

1W1PLAN JPA

Administrator Beyer introduced the Joint Powers Agreement (JPA) used by the Pomme de Terre 1W1Plan. Wold opposes what he feels is the creation of an additional layer of government. Administrator Beyer relayed that the JPA will prevent the District from being liable for a misappropriation, misuse of funds, or other legal liability that one of the other twelve entities may execute. Gillespie motioned, seconded by Kapphahn, to authorize staff and legal counsel to review and investigate JPA clauses used in other 1W1Plan districts. Roll call vote: Gillespie – aye, Wold – nay, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

**2019 ANNUAL
REPORT**

Board managers reviewed the 2019 Annual Report. Wold motioned, seconded by Deal, to approve the 2019 Annual Report with corrections from Gillespie to the Moonshine projects. Roll call vote: Gillespie – aye, Wold – nay, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.

Gillespie motioned, seconded by Schmidt, to adjourn the meeting at 12:00 pm. Roll call vote: Gillespie – aye, Wold – nay, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Brutlag – aye, Kapphahn – aye. Motion carried.