

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
May 21, 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, Doug Dahlen, Jerome Deal, John Kapphahn, Steven Schmidt, and Allen Wold. Absent: Jason Beyer, Ben Brutlag, Scott Gillespie (joined later). 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.
- AGENDA** Dahlen motioned, seconded by Schmidt to approve the agenda with the following changes: remove the EOR North Ottawa Report, add the JD #11 Bond Reimbursement Request #1, add the Samantha Lake Cost Estimate, add the 1W1Plan Joint Powers Agreement. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.
- CONFLICTS OF INTEREST** Kapphahn stated a conflict of interest on the Samantha Lake project.
- CONSENT AGENDA** Deal motioned, seconded by Kapphahn to approve the Consent Agenda. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.
- PUBLIC COMMENT** The meeting was opened for public comment. Mike Larson of Larson Helicopters presented information on cattail and tree/brush removal services at a price of \$350 per treated mile and \$85 per treated acre plus chemical, respectively. Leo Splonskowski of LM Road Service presented cattail, brush and weed treatments at \$125 per hour plus chemical. Engineer Technician Fridgen was asked to bring further details to the next Board meeting.
- DRAINAGE DISPUTE** Engineer Technician Fridgen gave a brief overview of a drainage dispute between neighbors Eugene Sanasack and Greg Vold. Fridgen stated that a tentative agreement has been reached, and will be attempted before the next board meeting.
- WCD #9** Riley Brothers has started construction on the portion of WCD #9 formerly known as WCD #10. They may be done by late July.
- JD #11** A preconstruction meeting was held Monday, May 18th with the contractor and utility representatives. Contractor Dean Hormann proposes to start June 1st. Landowner Doug Toussaint has requested grading and side inlet culverts along low lying portions of JD #11 east of Highway 75, along Hwy 55. Similar work is included on other laterals in the project. The estimated cost is not expected to exceed \$25,000.
- JD #11 NOTICE TO PROCEED** Engineer Guler presented a Notice to Proceed. Dahlen motioned, seconded by Deal to approve the Notice to Proceed. Landowner Ray Ehlers requested changes to his property’s easements, stating that he felt the changes would not take long to work through. District Engineer Chad Engels relayed that the easements contain standard language, as used on the previous drainage projects, and that passage of the project pursuant to Minn. Stat. Chapter 103E proceedings includes implicit easements required for the construction and continued maintenance of the project; however, the explicit easements are preferred as they can be recorded in the county recorder’s office and utilized on future projects to illustrate, by survey, the exact location of the easement areas. Mr. Ehlers will fax the requested changes to the District Office. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.
- TCD #23 G. BORSHEIM PETITION** At 9:00 am, Wold motioned, seconded by Deal, to open the hearing to consider the petition from Eugene Borsheim requesting authority to use Traverse County Ditch #23 (“TCD #23”) as an outlet for the S1/2SW1/4 of Section 34, Range 45, Redpath Township (128N), Traverse County (Parcel #10-0155000). Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried. 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 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 #23 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 #23 would not be adversely impacted by the tile project. The applicant was not present 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 \$2,198.67 and \$80.00, respectively. Deal motioned, seconded by Schmidt to approve the Order Authorizing the Use of TCD #23 as an Outlet was approved. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried. Dahlen motioned, seconded by Schmidt to close the hearing. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.

JD #11 PROJECT ADDITION

The discussion returned to the request from JD #11 landowner Doug Toussaint. Dahlen made motion, seconded by Schmidt to approve the additional work. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.

JD #11 BUFFER COST-SHARE

Board managers reviewed the \$14,190 Flat Rate Based Conservation Practice Assistance Contract with Traverse County SWCD to reduce the cost to install and seed JD #11 buffers on the Traverse County portions of the ditch system. Kapphahn made motion, seconded by Dahlen to approve the cost share agreement. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – no, Kapphahn – aye. Motion carried. Board managers expressed concern over the cost of the native seed mix. Wold asked if the same expensive seed mix would need to be used if the buffer is damaged. Attorney Croaker informed the Board that use of the native mix is preferred, but not mandatory, and that the Board could authorize the use of other seed varieties, such as alfalfa, so long as the seed mixes were not considered noxious weeds. Attorney Croaker also informed the Board that it is responsible for the continued maintenance of the buffers in the same manner as other repairs and that the fee owner of the property is permitted to harvest the vegetation contained in the buffer area.

JD #11 BOND REIMBURSEMENT REQUEST #1

Administrator Beyer reported that Traverse County has elected to retain the JD #11 bond proceeds, and will accept monthly reimbursement requests from the District. Deal motioned, seconded by Dahlen to approve Traverse County Bond Reimbursement Request #1 in the amount of \$472,398.06. Roll call vote: Wold – absent/no vote, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.

JD #6 LANDOWNER MEETING

District Engineer Engels discussed project development for the repair of JD #6. The system has a smaller benefitted area, compared to recent ditch system repairs – which will result in higher costs per acre. Engels has been in contact with Board Manager Beyer, who has relayed that landowner support continues for this project. If the District desires to follow the same schedule as in previous projects, a grant application must be submitted in August, and staff requests landowner feedback prior to the application, but under current pandemic restrictions, a large meeting is prohibited. Administrator Beyer presented the current landowner list, which is around 20 people, and recommended that a series of conference calls be offered to landowners. Kapphahn motioned, seconded by Dahlen, to conduct project support polling by telephone. All managers voted aye. Motion carried.

NORTH OTTAWA DRAFT DNR OPERATIONS

Board managers reviewed draft North Ottawa operation recommendations from the DNR. The DNR requests the dedication of 3 interior cells for recovery of operation and maintenance costs through farming, 2 cells for pilot or demonstrations of accomplishing NRE benefits while generating revenue, and 3 cells for the enhanced NRE purposes described by the DNR. Deal suggested that one cell be moved from the third category to the second. Administrator Beyer anticipates that EOR's report, which will describe in more detail their recommendations for revenue-generating and NRE-enhancing opportunities, in June. Kapphahn motioned, seconded by Dahlen, to table the issue to the June 18, 2020 Board meeting. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Kapphahn – aye. Motion carried.

REDPATH PURCHASE AGREEMENTS

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

Closing was held on May 31, 2020, for land acquired from and sold to Mr. and Mrs. Breckenridge Dilly.

The District was notified of the passing of Mr. Richard Mathias. Dahlen requested staff to let the Mathias family know our thoughts and prayers are with the family. Ohnstad Twichell will continue working with the family to schedule closing on the property when the family is ready to proceed.

Mr. Joe Blume signed the Tencco purchase agreement and the abstract has been updated. Ohnstad Twichell will prepare a title opinion and work with the Title Company to schedule a closing date.

Ohnstad Twichell is preparing closing documents and will work with the Title Company to schedule a closing date.

**REDPATH NRCS
GRANT
APPLICATION**

District Engineer Engels described the required 1:1 matching contribution for the Alternative Funding Arrangement grant opportunity through the National Resource Conservation Services' Regional Conservation Partnership Program. If the District were to apply for \$5,000,000 from the program, the District could match these funds with its current \$2,440,000 Lessard Sams grant award and a \$2,600,000 contribution from the District's Construction Fund. A commitment at this time is not binding. If awarded the nationally competitive grant, the Board would later consider for approval a formal grant agreement. The District can also continue to pursue outside funding sources to replace the internal contribution. Dahlen motioned, seconded by Kapphahn to approve the Resolution Adopting Cost-Share Commitment for the Redpath Flood Impoundment and Stream Corridor Restoration. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – absent, Kapphahn – aye. Motion carried. Schmidt had technical difficulties and cast his vote to Administrator Beyer directly – aye.

SAMANTHA LAKE

District Engineer Engels stated that Grant County approved the Samantha Lake Joint Powers Agreement; the final design will be designed in collaboration with the Grant County Engineer. The cost estimate for the project is \$228,000 and will be split 50-50. It is anticipated that the construction contract will be below legal bid thresholds, requiring only price quotes. Some construction may take place late this summer, but some work will need to wait until after crops are harvested. Engineering staff met with DNR Hydrologist Emily Siira, who stated that as long as the project maintains lake levels above the Ordinary High Water Level, no public waters regulations are imposed, and that it may be feasible to drop 18" from that mark. The engineering staff may pursue the additional 18" at a future date.

**RFQ FOR
MOWING &
HAYING
SERVICES**

A Request for Bids for the Mowing and Haying of North Ottawa Impoundment Project, originally drafted December 2019 was reviewed. Kapphahn made motion, seconded by Dahlen, to approve the Request for Bids with the addition of a map. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – no, Kapphahn – aye.

GILLESPIE

Board Manager Gillespie entered the meeting.

1W1PLAN JPA

Board Managers Kapphahn and Dahlen reported that they met with Grant County and Grant County SWCD officials to talk about the BdSWD's interest in participating in a 1W1Plan joint powers entity. The Board managers relayed that they need more information about the organizational options and corresponding liability before making that decision on behalf of the District.

KAPPAHNN

Board Manager Kapphahn left the meeting.

**SCHANDER
RING DIKE**

The District received a written complaint submitted from Landowner Robin Abel, who states that a ring dike burrow pit constructed on property adjacent to his crossed the property line and is now causing noticeable seepage 10 years after its construction. District Administrator Beyer introduced a brief historical timeline related to the complaint. In 2009, the District offered a ring dike program with cost-share provided by EQIP, RRWMB, and the Bois de Sioux Watershed District. Landowner Brenda Schander expressed interest in the program for a farmyard in Section 27 of Brandford Township in Wilkin County. JOR Engineering created design plans for the ring dike in June 2010. No design was included for the excavation pit. Ms. Schander signed a Ring Dike Agreement in August 2010. The agreement outlines the landowner and District responsibilities. Mr. Abel believes the District has liability pursuant to the agreement's fifth clause, which states:

The Land Owner hereby certifies to the Watershed District that the ring dike will be constructed on land owned by the Land Owner and the earthen material used to construct the ring dike shall be taken from land owned by the Land Owner, or that Land Owner has express written consent from the appropriate Land Owner to take the earthen material, and that there is no one, other than the Land Owner, claiming any right, title, or interest in and to said property nor are there any boundary disputes with adjacent owners which would affect the construction of the ring dike.

In August 2010, Ms. Schander entered into a construction contract with Fridgen Excavating, and the project was completed by November 2010. District Attorney Croaker added that JOR Engineering and Fridgen Excavating are no longer in business, and Ms. Schander no longer owns the property (the parcel was split, and now two new parties own the land). Attorney Croaker discussed that there is uncertainty as to whether previous parties agreed to the location of the burrow pit and moved it without informing the District or

revising the design plans to illustrate the new location. Mr. Abel requested verbal or financial support to 1) restore land removed from his property, and 2) install a tile connection from the burrow pit to his existing tile system, and 3) to establish a time table under which the work would be completed. In exchange, Mr. Abel would permit the connection to his existing tile and cover the future utility costs to operate the pump. Mr. Abel has been successful in petitioning the Wilkin County Highway Department to lower a downstream culvert under CSAH 19, which should be completed this summer. District Engineer Technician Fridgen stated that, after several site visits, he sees three options for the District: 1) Install a tile segment, and drop water levels in the burrow pit 2 – 3'; 2) Move material from the southern edge of the excavation pit to the northern edge to create a dike; or 3) Do nothing. President Vavra recommended that a meeting be held with District staff and the two landowners involved. Attorney Croaker offered for the District to provide mediation services between the landowners, and to aid in permitting.

**LTWQIP
PHASE NO. 1**

Advisory reports from the Minnesota DNR and BWSR were presented. In the DNR's advisory report, it recommended adding smaller rock under the rip rap to prevent erosion. If approved, this recommendation will result in additional cost; these comments will be reviewed further by engineering staff. Pursuant to Minn. Stat. § 103D.605, Gillespie made motion, seconded by Dahlen to set the project hearing for June 18, 2020 at the Bois de Sioux Watershed District office and to publish the required notices. District Engineer Engels presented the estimated cost of the proposed project of \$850,000. The Board discussed the method of payment: \$283,000 from the Red River Watershed Management Board; \$336,775 from the Minnesota Clean Water Fund through sponsoring agency Board of Water and Soil Resources; \$200,000 from the Bois de Sioux Watershed District Construction Fund; \$4,500 from the Traverse County Local Water Plan; and \$25,725 from the Lake Traverse Water Quality Improvement Project Water Management District. Board Manager Schmidt asked whether a \$750,000 funding cap would be imposed on this phase, or on subsequent phases. District Attorney Croaker stated that the project cap does not apply to Minn. Stat. § 103D.605 projects. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Gillespie – aye. Motion carried.

**VOLD
NORTH
OTTAWA**

District Administrator Beyer informed the Board that Lessors, Greg and Pat Vold, will be planting soybeans, instead of silage corn, in cells A1, A2, B1, and B2 of North Ottawa.

**COVID-19
PREPAREDNESS
PLAN**

Board managers reviewed the draft COVID-19 Preparedness Plan. Board Manager Gillespie recommended that customers visit the office one-at-a-time. Board managers requested that, dependent upon compliance with May and June executive orders, staff make preparations to accommodate a partial or full opening of the District's office for the June 18, 2020 Board meeting. Gillespie motioned, seconded by Dahlen, to approve the District COVID-19 Preparedness Plan and to give staff discretion on opening and operating the District's office for day-to-day operations. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Gillespie – aye. Motion carried.

MDM GRANT

District Engineer Engels asked Board managers to consider contacting legislators to advocate for preservation of the Multipurpose Drainage Management if the managers desire to continue to receive outside funding for future projects.

**TCD #2
CLEAN-OUT**

District Engineer Technician Fridgen has had Shores Edge Excavating working on a clean-out of TCD #2, which will exceed the \$10,000 threshold by \$3,732.50. Schmidt made motion, seconded by Dahlen, to approve the clean-out of \$13,732. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Gillespie – aye. Motion carried

Schmidt made motion, seconded by Dahlen, to adjourn. Roll call vote: Wold – aye, Deal – aye, Vavra – aye, Dahlen – aye, Schmidt – aye, Gillespie – aye. Motion carried.