

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
December 17, 2020**

- CALL TO ORDER** The meeting was called to order by President Vavra at 9:03 a.m. via conference call and screenshare pursuant to Minn. Stat. § 13D.021. Present in the District Office: Linda Vavra, Jason Beyer, Ben Brutlag, Jerome Deal, Steven Schmidt, and Allen Wold. Joined remotely: Doug Dahlen, John Kapphahn. Absent: Scott Gillespie. Also present remotely: Engineer Chad Engels, Engineer James Guler, Engineer Nathan Trosen, Engineer Technician Troy Fridgen, and Attorney Lukas Croaker. Also present in the District Office: 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** Deal motioned, seconded by Schmidt, to approve the agenda with the following changes:
- Add claims for Chad Bruns, Lake Country Technology, Whaley Excavating.
 - Move to the beginning of the meeting the discussion of 2021 cost of living employee raises
- Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.
- CONFLICT OF INTEREST** Board Manager Kapphahn declared a potential conflict of interest with the Samantha Lake Project.
- CONSENT AGENDA** Schmidt motioned, seconded by Beyer, to approve the Consent Agenda with the addition of the following claims: Chad Bruns, \$1,425.00; Lake Country Technology, \$128.22; Whaley Excavating, \$23,090.00 Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.
- 2021 COST OF LIVING ADJUSTMENTS** The Personnel Committee presented their recommendation of staff cost of living raises of 2% for 2021. Beyer seconded the committee’s recommendation. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.
- COVER CROP PROGRAM** Board managers reviewed a report from Wilkin County SWCD regarding the \$5,000 that was provided to them by the District through a three year renewable cover crop program. Stevens County SWCD was unable to use their 2020 funds, and can either return the funds or hold them for use in 2021. Deal motioned, seconded by Beyer, to 1) authorize the use of the funds through December 31, 2021 2) require that funds unused after December 31, 2021 be returned to the District and 3) limit the LGU’s eligibility for 2021 to \$5,000. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.
- RRWMB USE OF FUNDS** Rob Sip, Executive Director of the Red River Water Management Board, presented information on how their funds are spent – both on district projects and shared, basinwide projects. Board Manager Beyer stated that he would be in favor of increased lobbying efforts and expenditures. President Vavra described her recent efforts to organize meetings for Region 1 board managers and administrators.
- PERMIT APP #20-156 D. STOCK** Permit Application #20-156 has been received for drainage work related to after-the-fact Permit #19-133. Landowner David Bakke has stated that he prohibits the District from accessing the project for inspection, which violates both District policy and Minnesota state statutes. The permit applicant is also in violation of the terms and conditions of related Permit #19-133. Permit conditions included: the inlet riser shall not impede or restrict flow to the receiving line’s full capacity, district representatives are authorized to access the property to conduct site inspections to ensure compliance with permit conditions and conformity to the BdSWD rules and policies, and the applicant must clean sediment on the downstream end of 18” centerline culvert. Wold motioned, seconded by Dahlen, to deny Permit Application #20-156. Wold amended the motion to include the further description of the denial based on the prohibition of access to the property. Beyer seconded the motion. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – absent, Deal – aye, Vavra – aye. Motion carried. Dahlen motioned, seconded by Brutlag, to authorize legal counsel and staff to prepare a motion and letter for the applicant and

landowner. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**BUDGET, LEVY, &
ASSESSMENT
HEARINGS**

At 10:00 am, Beyer motioned, seconded by Dahlen to open the Public Hearing on the Budgets and Levies for the 2021 General Fund, Construction Fund, and Budget and Assessments for the Ditch Systems. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried. Budgets and fund balances for 2021 were reviewed, along with the corresponding proposed 2021 assessments and levies. Beyer made motion, seconded by Schmidt, to approve the 2021 General and Construction Budgets. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried. Beyer motioned, seconded by Deal, to approve the Resolution of Ad Valorem Levy Tax with a \$170,000 General Fund ad valorem levy tax and a \$1,677,769.83 Construction Fund ad valorem levy tax. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried. Next, the 2021 Drainage Ditch Assessments were reviewed, with updated figures presented. Beyer motioned, seconded by Schmidt, to approve the Resolution for Ditch Assessment Levies in the total amount of \$944,883.00. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**INTERNAL
INTEREST
RATE
DESIGNATION**

Last year, board managers requested that a set index be used for the District's internal interest rate. Accountant Renee Kannegeisser recommended that the District use the Long-Term Federal Interest Rate for December. Beyer motioned, seconded by Deal, to approve the accountant's recommendation. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried. Landowner Janet Barlage confirmed with the board that this interest rate would not be used for bonded and internally financed projects with set interest rates, such as TCD #37, TCD #23, etc. Deal motioned, seconded by Beyer, to close the hearing. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**JD #11
TRAVERSE
COUNTY REIMB.
REQUEST #7**

Engineering staff presented a revised cost estimate for the Repair of JD #11. The revised cost estimate mirrors closely the original estimate, considering the expenses that will be incurred to remedy the structure near the ditch's outlet. Deal motioned, seconded by Beyer, to approve Pay Request No. 7 in the amount of \$205,832.68. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried. District Culvert and Clean Water Cost Share amounts will be finalized with the project is closed.

**JD #6
HEARINGS**

A public hearing will be held on December 21 at 10:00 AM for the 103E.715 Subd. 4 Hearing on the Engineer's Report & 103E.315 Subd. 2 Final Hearing of Redetermination of Benefits and Damages.

**2020 DITCH
MAINTENANCE**

Engineer Technician Fridgen presented the 2020 Ditch Maintenance Activities Report. Brutlag commended Engineer Technician Fridgen for the work completed on JD #12, which included three rock weirs to slow velocity and hydroseeding.

**JD #12 FIELD
APPROACH
COST SHARE
PROGRAM
NEEDED**

Engineer Technician Fridgen relayed the need for a cost-share field entrance program for landowners on JD #12, based on safety concerns. Board managers recommended that an inventory for a potential project be compiled, keeping in mind that to minimize costs, some field approaches could be moved off of the county road and constructed on a township road, or if field approaches could be moved to a shared property line.

**WCD #9
CHANGE ORDER
#3**

Deal motioned, seconded by Beyer, to approve Change Order #3 in the amount of \$6,347.50, for additional excavation to repair a washout area; riprap was not included as part of the change order, but is included as unit price bid item. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**WCD #9 PAY
REQUEST #2**

A second pay request has not yet been received, and no resolution is needed at this time for District Culvert and Clean Water Cost Share; cost share amounts will be finalized when the project is closed. Before or upon the presentation of the second pay request, Board Managers will need to consider if, or to what extent, liquidated damages will be deducted for engineering and inspection costs incurred as a result of the contractor's failure to meet the contractual substantial completion date. The project has exceeded the engineer's cost estimate by approximately \$148,570, and future costs are

anticipated. The project's Notice to Proceed was dated June 3, 2019. Construction began August 5, 2019.

**PERMIT APP
#20-156
D. STOCK**

Attorney Lukas Croaker presented a letter of detailed explanation for the denial issued by the District for Permit #20-156. Beyer motioned, seconded by Schmidt, to approve the letter. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – absent, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**PETITION FOR
PARTIAL DITCH
ABANDONMENT
TCD #52**

Board managers reviewed petitions received for the abandonment of a portion of TCD #52 in Section 7 of Parnell Township in Traverse County. Landowners report that the District has never provided any ditch maintenance, and that most years, the area is farmed. According to the current public waters GIS map, the selected area does not have a public waters designation. Beyer motioned, seconded by Schmidt, to order a 103E.806 public hearing. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**WCD #SUB-1
IMPROVEMENT**

Board Manager Jason Beyer has been working with WCD #Sub-1 landowners to determine their level of interest in an improvement project. Over forty landowner signatures have been collected, of 80 parcels, and landowners are aware of the bond requirements associated with the project. Beyer asked if fellow board managers support this project. Board Manager Jason Beyer believes there are additional landowners who intend to sign the petition. Attorney Lukas Croaker stated that a 26% threshold is used in Minnesota statute, but that the District encourages 50% participation for full consideration. No opposition was expressed by board managers. Commissioner Eric Klindt relayed his support for the project.

**LTWQIP
PHASE #1
PAY ESTIMATE
#1**

The contractor for the Lake Traverse Water Quality Improvement Project Phase No. 1 installed the Number 3 rock riffle; channel work is completed, and a portion of the project was drill-seeded and mulched. Schmidt motioned, seconded by Beyer, to approve Pay Request #1 in the amount of \$247,481.05. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

**LTWQIP
PHASE #2**

We continue to wait to for the results of grant applications submitted to MN-DOT and BWSR. This portion of the project is classified as a public waters, but is not part of the drainage system – so additional permitting steps must be completed. Bids for this project may be let in Summer 2021.

**BIG LAKE
HEARING**

A public hearing will be held on December 22, 2020 at 10:00 for the 103D601 Big Lake Project. Adjacent landowners were mailed hearing notices, and attempts are being made now to contact private landowners by phone.

**DORAN
CREEK**

Moore Engineering is in the process of reviewing the project plan created by Houston Engineering. Depending on the funding sources pursued, there are project designs that must be incorporated to maintain, or gain, funding eligibility. Engineering staff will initiate meetings with the DNR on January 13, 2021, presenting a two-stage channel that follows the original path and oxbows. This design is supported by the creek's hydrology and velocities.

**SAMANTHA
LAKE**

The drop structure is installed, and the contract will likely finish this project soon.

**NORTH OTTAWA
MOU WITH DNR**

The DNR has provided requested changes. Administrator Beyer will make those that match the District's project intent, and will mediate remaining issues. A final version should be completed within two months.

Deal left the meeting.

**REDPATH GRANT
& TCD #35**

Pat Lynch, Minnesota DNR, has notified staff that the District could receive up to \$300,000 in flood hazard mitigation funds that are remaining from a previous grant cycle. These funds would need to be matched by the District with construction or farm lease revenue funds, and could be applied to a self-contained phase of the Redpath Impoundment Project. District Engineer Chad Engels has recommended that the District consider applying the funds towards the relocation of TCD #35 (or the abandonment and establishment of a new drainage system), which is required before the Impoundment can be built. Board Manager Wold expressed concerns about the continued usage of the State of Minnesota's flood hazard mitigation funds. Administrator Beyer stated that the

resolution provided establishes a commitment to provide cost-share, and that a grant agreement would next be provided for consideration. Grant funds are only received as a reimbursement to expenditures, and there is no hard deadline by which funds must be spent. She also stated that the District cannot fund this project without outside funding and no additional monies have been committed by the Red River Water Management Board at this time. Schmidt motioned, seconded by Dahlen, to approve the Local Government Resolution for Flood Hazard Mitigation Grant Assistance. Roll call vote: Schmidt – aye, Beyer – aye, Wold – nay, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

FARMLAND LEASE BID Board managers reviewed the draft advertisement for farmland lease bid. Beyer motioned, seconded by Schmidt, to approve the bid. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

LINED WATERWAYS PROGRAM COST-SHARE Board managers reviewed information about lined waterway mats installed on drainage ditches in partnership with the Traverse County SWCD. Wold motioned, seconded by Schmidt, to approve \$20,000 for additional lined mats in locations determined by Engineer Technician Troy Fridgen and Traverse SWCD Technician Bruce Johnson. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

RIPARIAN AID ALLOCATIONS FOR 2020 & 2021 Board managers reviewed options to allocate Riparian Aid for expenses in 2020 and anticipated expenses in 2021. Schmidt motioned, seconded by Kapphahn, to approve the following allocations:

2020:	\$2,718	Wilkin County SWCD Buffer Program
	\$9,856	Traverse County & Traverse County SWCD Lined Waterways Program
	\$17,700	Hydroseeding buffers following repairs on JD #14 and JD #12
	\$30,000	Administration, Manager, Staff & Legal Expenses
2021:	\$20,000	Traverse County & Traverse County SWCD Lined Waterways Program
	\$60,000	Buffer seeding following repairs on drainage ditches
	\$134,400	Alternative Practices Program, to be determined
	\$30,000	Administration, Manager, Staff & Legal Expenses

Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

1W1PLAN RESOLUTION FOR PLAN SUBMISSION TO BWSR Comments were received and compiled following the 60-day notice and public hearings on the District's shared Comprehensive Watershed Management Plan. Wold motioned, seconded by Schmidt, to approve the Resolution Approving the Bois de Sioux – Mustinka Comprehensive Watershed Management Plan allowing submission of the plan to BWSR. All participating LGU's must pass a similar resolution. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

CD PURCHASES The District's money market account has lost its advantageous interest rate. Wold motioned, seconded by Beyer, to authorize President Vavra and Administrator Beyer to coordinate a transfer funds to short-term CD's. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.

CREEK BEAVER DAM & TREE REMOVALS Engineer Technician Troy Fridgen commented on the moderate fall conditions, and encouraged landowners of parcels with creeks to consider removing problematic beaver dams and dead trees – neither require a permit from the District or the DNR.

BOARD MANAGER COMMITTEES President Vavra gave an update on meetings held by the Red River Water Management Board, Minnesota Association of Watershed Districts, International Water Institute, and the Flood Damage Reduction Work Group. Board Manager Wold gave an update of a recent meeting at the Drainage Workgroup.

Wold motioned, seconded by Beyer, to adjourn the meeting at 1:42 pm. Roll call vote: Schmidt – aye, Beyer – aye, Wold – aye, Dahlen – aye, Brutlag – aye, Kapphahn – aye, Deal – aye, Vavra – aye. Motion carried.