

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
June 17, 2021**

- 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 in the District Office: Linda Vavra, Jason Beyer, Jerome Deal, John Kapphahn (joined later), Steven Schmidt, Allen Wold. Absent: Benjamin Brutlag, Doug Dahlen, Scott Gillespie. Also present in the District Office: District Engineer Chad Engels, Engineer Technician Troy Fridgen, and Administrator Jamie Beyer. Joined remotely: Attorney Lukas Croaker, Engineer Jim Guler and Environmental Group Leader Amy Denz (joined later).
- 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 Beyer, to approve the agenda with the addition of the Eldorado Township Permit #20-164. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Vavra – aye. Motion carried.
- CONSENT AGENDA** Wold motioned, seconded by Schmidt, to approve the Consent Agenda. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Vavra – aye. Motion carried.
- KAPPAHNN ARRIVES** Kapphahn arrived.
- PUBLIC COMMENT REDPATH** Mr. Kevin Blume and Mr. Neil Blume provided public comment, concerned that recent Redpath Project land sales involved a higher price per acre than when their parcel was sold in 2013, stating that they had sold their parcel in support of the project with the understanding that all lands would be sold for the same price per acre. Board Managers stated that recent and past land sales were based on appraised land values at the time of the sale. Had the board been able to acquire properties at the same time, sale prices would have been more similar. However, the board wished to avoid eminent domain and acquire properties as owners were willing to sell, therefore appraised values changed with the passage of time.
- PERMIT APP. #21-066 D. HOLTE** An unpermitted dike was built in the SE1/4 of Section 32 in Western Township, Otter Tail County, to mitigate flooding caused by an unmaintained tributary to the Rabbit River located in the adjacent DNR parcel to the east. The direction of flow is to the south, however, a portion of the flow is moving west due to the diminished stream capacity. District Engineer Chad Engels stated that, in principle, dikes adjacent to streams consume floodplain storage and exacerbate downstream flooding. Kapphahn motioned, seconded by Schmidt, to authorize engineering staff to review and evaluate the location and design of the dike, and collect survey data to establish the elevation profile of the tributary. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried. Board managers encouraged legal staff to review whether county commissioners can compel the DNR to clean-out a public water.
- PERMIT APP. #20-164 ELDORADO TWP.** Eldorado Township Chairman David Horning stated that Eldorado's \$612,000 grant application for township roadway improvements south of the County highway (Permit Application #20-164) was denied. Earlier this year, the board approved funding for township roadway infrastructure improvements north of the County highway for the purpose of watershed flood risk reduction. Chairman Horning stated that the need for township road improvements south of the County highway persists, but there are insufficient township funds available to complete construction. District Engineer Chad Engels said he does not see a watershed benefit associated with the proposed project south of the County highway and therefore watershed funding would not be justified. Engineer Engels defined the proposed work south of the County highway as drainage and transportation. Engineer Engels stated that landowners seeking public drainage improvements should follow Minnesota Statutes Chapter 103E which lays out the procedure for developing a new drainage system or a lateral to a legal drain (in this case TCD 37). Kapphahn motioned, seconded by Deal, to authorize legal staff to evaluate public drainage options for landowners upstream of TCD #37, including a lateral, new ditch, and benefit area implications, and to prepare a corresponding petition. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried. Although the landowner signature threshold may be 26% for a lateral, board managers strongly encouraged that 100% support for the project be sought. Chairman David

Horning presented a \$1,224 invoice that was incurred by the township, that he believes was incurred in response to design changes requested by watershed district engineering staff. Board managers stated that the payment obligation is not with the Bois de Sioux Watershed District.

**JD #12 PETITION
HEARING:
G. COLEMAN**

Wold motioned, seconded by Deal, to open the hearing to consider the petition from Gerald Coleman to use Judicial Ditch #12 ("JD #12") as an outlet for the NE1/4 of Section 25, Range 44, North Ottawa Township (T129N), Grant County (Parcel #11-0088-500). Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – 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. This information confirmed that surface drainage from the proposed project flows to JD #12 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, the existing design capacity of JD #12 would not be adversely impacted by the tile project. The applicant was not present to speak to the permit. Engineer Jim Guler described two approaches to determine the outlet value: Option 1 is based purely on the historical costs of the ditch and the associated benefit and project acres; Option 2 is based on the proportion of the historical costs that are not paid by public entities and the associated benefit and project acres. Board managers discussed which option best represents what the parcel would have paid had it been included in the original assessment district. Greg Mastellar, on behalf of MnDOT, requested that the board consider the large amount of benefits paid by MnDOT and the amount of additional maintenance they conduct as a road authority. Kapphahn motioned, seconded by Schmidt, to use Option 2. Roll call vote: Wold – no, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried. Attorney Croaker read the Order, which included that the outlet fee and benefits were calculated to be \$1,471.18 and \$131.27, respectively. Wold motioned, seconded by Kapphahn to approve the Order Authorizing the Use of JD #12 as an Outlet. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried. Deal motioned, seconded by Kapphahn, to close the public hearing. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

SAMANTHA LAKE

District Engineer Chad Engels reported that the Samantha Lake Project was operational this spring, and now Grant County officials and staff are requesting a structure modification that would provide nearly 4' of separation between the water level and adjacent roads – in the interest of public health, safety, and welfare. DNR Hydrologist Emily Siira and DNR Regional Manager Nathan Kestner discussed whether an environmental review would be required, and what challenges an environmental review would present for this specific project. Regional Manager Nathan Kestner stated that the first requirement would be to discern the alternatives that would result in the least damaging solution. Regional Manager Nathan Kestner stated that, statewide, road raises are almost always determined to be the preferred alternative, as opposed to the drawdown of adjacent water levels. Kestner also stated that permitting authority could be delegated to the WACA LGU, who has access to the BWSR road replacement funding program. Primarily, the DNR would need to evaluate how the proposed project alternatives impact adjacent wetlands, and that cost alone is not the ultimate decision maker. Board Manager John Kapphahn stated that this road has already been raised several times – and that road raises that require building up and widening the road – also result in a loss of floodplains and wetlands. Hydrologist Emily Siira asked if lowering Samantha Lake will affect Elbow Lake, and Engineer Chad Engels stated that he believes there is sufficient separation between the two, and would not anticipate an impact. Board Manager John Kapphahn inquired as to why Samantha Lake hasn't been included in the DNR's Shallow Lakes Program; no answer was provided. Grant County Commissioner Bill LaValley encouraged DNR staff to review how high water levels have impacted multiple neighboring landowners, and stated that Grant County has done enough road raising. Board Manager Allen Wold inquired about the ordinary high water levels for Samantha Lake; Hydrologist Emily Siira stated that the 1161.9' elevation was established in 1998, after reviewing 1973 USGS data indicating an elevation of 1161'. Board managers discussed extreme precipitation in 1972 and 1997, leading up to both collections. Grant County Engineer Tracey Von Barga recommended that DNR staff consider a change to the existing condition, considering the amount of dead rough fish that Grant County plows off of the adjacent road, following flooding conditions. Landowner Steve Salwasser questioned what natural resource benefit is derived from expanding and deepening lakes that cause shoreline erosion, degrading overall water quality and water levels that do not support the historical wildlife habitat. Board managers discussed next step options: do nothing; evaluate road raise options; evaluate lake lowering options; evaluate risk of flooding at current condition. Kapphahn motioned, seconded by Schmidt and carried unanimously,

for engineering staff to return with a proposal for a Scope of Service. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

**JD #11
CHANGE ORDER
NO. 7**

Kapphahn motioned, seconded by Schmidt, to approve JD #11 Repair Change Order No. 7, which changes the completion data from July to August, and includes a \$5,000 change to the contract price for mobilization costs. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

**CLEAN WATER
FUND ELIGIBILITY**

District Engineer Chad Engels presented information on recent repair/improvement ditch projects, and the cost share provided for clean water fund eligible items. Under the BWSR Multipurpose Drainage Management program, 75% of the costs are grant-eligible, but to remain competitive, the Bois de Sioux Watershed District has been submitting grant requests equal to 50% of the estimated costs. Board Managers were asked if they would be interested in supplementing the difference between the actual costs of the grant-eligible items and grants received, up to 75%. This would involved a transfer of:

WCD #8	\$47,362.75	JD #11*	\$114,640.88
WCD #9/#10*	\$197,244.42	JD #6*	\$167,878.50

*These amounts are not final; project has not been closed yet.

Board Managers requested that the topic be referred to the Policy Committee.

**JD #6 REPAIR
PRIVATE
CULVERTS**

Engineer Jim Guler gave an update on JD #6 Repair construction. A landowner, that had installed side inlet culverts at his own expense, has requested that he retain ownership of the culverts as they are replaced. Board managers advised staff to notify the landowners that they are responsible for removing the culverts if they wish to have them salvaged and this must be done ahead of the contractor's work.

**WCD #9/#10
IMPROVEMENT
BUFFERS**

Engineer Jim Guler presented pictures of the buffer that has failed to establish on WCD #9. The soil in the buffer area for approximately two miles contains mostly gravel and is thought to be the remnants of a dike that existed prior to the improvement project. A recommendation from the engineering staff will be provided at the next meeting.

**TCD #35
PUBLIC
HEARING**

Deal motioned, seconded by Beyer, to approve the TCD #35 Order for 103E.261 subd. 1 Public Hearing. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

**WCD #35
PUBLIC
HEARING**

Engineer Jim Guler presented the Engineer's Report for WCD #35. Beyer motioned, seconded by Kapphahn, to approve the order to set the 103E.101, subd. 4a, Public Hearing on the Engineer's Report of Findings on the Alignment, Cross-Section, Profile, Hydraulic Structure Locations, Materials, Dimensions and Elevations, and/or Right-of-Way of the Drainage System as Originally Constructed or Subsequently Improved. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

**TCD #1E
PRICE QUOTES**

Engineer Technician Troy Fridgen has received price quotes for replacement of a culvert on TCD #1E, ranging from \$20 - \$44,000. Kapphahn motioned, seconded by Schmidt, to authorize Fridgen to verify quantities and materials and negotiate with contractors for the lowest price. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried. Administrator Beyer relayed that MnDOT has agreed to cost-share this project, and has requested that their portion be added as a special assessment, amortized over a multiyear term. These details will be finalized once the project is completed and costs are finalized.

**SOUTHERN
BOUNDARY
LANDOWNER
MEETING**

A landowner meeting is scheduled for June 25th, to discuss the proposed southern boundary change for properties west of Highway 75. Upper Minnesota River Watershed District and Big Stone County recently held a meeting with landowners of a proposed ditch in the area, whose construction would affect where the boundary is located. District staff will closely monitor the support and progress of the new ditch and revise the boundary accordingly.

**REDPATH
LAND
ACQUISITION**

It has been brought to the District's attention that the Bartell Family's 1.01 acre parcel (currently in real estate closing for the Redpath Project) is enrolled in CRP. Beyer motioned, seconded by Kapphahn, to buy-out the CRP contract for the 1.01 acre parcel so closing can be completed. The

cost is estimated to be \$800 - \$1,200. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

NORTH OTTAWA ROAD DAMAGE Earlier this year, Engineer Technician Fridgen had gravel roads bladed within the North Ottawa Impoundment. Following a rain, a vehicle went through and damaged the roads. Board managers suggested that staff gather prices for damage prevention equipment.

MUSTINKA RIVER / REDPATH GRANT APP. District Engineer Chad Engels reported that an application for the Mustinka River Corridor and Rehabilitation Project (as part of the Redpath Impoundment) was submitted to the Red River Water Management Board (RRWMB) this week. RRWMB referred the project to their water quality committee for review.

LTWQIP NO. 1 PHASE 1 Engineer Jim Guler asked whether board managers wanted to attend the final punchlist inspection for the Lake Traverse Water Quality Improvement Project No. 1 Phase 1 construction. Board Manager Schmidt volunteered. Beyer motioned, seconded by Kapphahn, to approve Pay Application No. 3 in the amount of \$329,094.98. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

LTWQIP NO. 1 PHASE 2 PROJECT HEARING The District received a response from the DNR in reference to the District's Minn. Stat. § 103D.605, subd. 2 notice to pursue Phase 2 of the Lake Traverse Water Quality Improvement Project No. 1. A response from BWSR is outstanding. Beyer motioned, seconded by Kapphahn, to set the Minn. Stat. § 103D.605 Project Hearing. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

LTWQIP NO. 1 PHASE 2 RRWMB GRANT AGREEMENT Board Managers reviewed RRWMB Approved Funding Agreement 2021FA-06 in the amount of \$367,765.00. Beyer motioned, seconded by Schmidt, to approve the agreement pending minor corrections identified by legal staff. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

LTWQIP NO. 1 PHASE 3 DEVELOPMENT Engineer staff recently met with DNR representatives to discuss preliminary design options. Although the project is a ditch repair, the corridor is classified as a public waters, and so DNR staff have indicated that they will need to approve the project. Also, because the drainage system is connected to Lake Traverse, the project will require a 404 permit, which may require archeological and endanger species reports/investigations.

BIG LAKE FONSI Engineer Chad Engels introduced a proposed change to the operations and maintenance plan, to remove the ability for a winter 1 ½' drawdown. The late summer/early fall 1 ½' drawdown will remain. Environmental Group Leader Amy Denz explained that the change is in response to comments received to the Big Lake Environmental Assessment Worksheet, and the District's obligation to make a change in order to issue a Finding of No Significant Impact.

CROAKER LEAVES Environmental Group Leader Amy Denz presented the Findings of Fact and Record of Decision for the Big Lake Flood Risk Reduction Project Environmental Assessment Worksheet. Kapphahn motioned, seconded by Deal, to adopt the Record of Decision regarding the Environmental Assessment Worksheet for the Big Lake Flood Risk Reduction Project, making a finding of no potential for significant environmental effects, a negative declaration and that preparation of an Environmental Impact Statement is not required. Roll call vote: Wold – no, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

2021-22 ANNUAL RESOLUTION Attorney Lukas Croaker left the meeting.

Discussion of a Big Lake Water Management District was tabled to a future meeting.

Wold motioned, seconded by Schmidt, to approve the Resolution Rescinding Emergency Public Hearings. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

Beyer motioned, seconded by Schmidt, to not waive the monetary limits on tort liability established by Minn. Stat. § 466.04. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

Kapphahn motioned, seconded by Schmidt, to approve the Policy to Verify the Authenticity of Requests to Change Vendor Bank Account Details. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

2021 – 2022 Annual Reorganization

Beyer called for nominations for the position of President. Kapphahn nominated Linda Vavra, seconded by Schmidt. Kapphahn motioned, seconded by Schmidt, to direct the Secretary to cast a unanimous ballot to Linda Vavra for President. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

Vavra called for nominations for the position of Vice President. Kapphahn nominated Jason Beyer, seconded by Deal. Deal motioned, seconded by Schmidt, to direct the Secretary to cast a unanimous ballot to Jason Beyer for Vice President. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

Vavra called for nominations for the position of Treasurer. Wold nominated John Kapphahn, seconded by Schmidt. Wold motioned, seconded by Deal to direct the Secretary to cast a unanimous ballot to John Kapphahn for Treasurer. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – abstained; Vavra – aye. Motion carried.

Vavra called for nominations for the position of Secretary. Kapphahn nominated Allen Wold, seconded by Schmidt. Deal motioned, seconded by Schmidt to direct the Secretary to cast a unanimous ballot to John Kapphahn for Treasurer. Roll call vote: Wold – abstained, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

Deal motioned, seconded by Wold, to designate the official District newspapers as follows:

NEWSPAPERS

- Traverse County.....Wheaton Gazette
- Big Stone County The Northern Star
- Grant County Grant County Herald
- Wilkin County The Daily News
- Otter Tail County.....The Daily Journal
- Stevens County The Chokio Review

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

Beyer motioned, seconded by Dahlen, to designate the District consultants as follows:

CONSULTANTS

- Attorney at Law Lukas Croaker, Ohnstad Twichell
- Engineer.....Chad Engels, Moore Engineering
- Accountant Renee Kannegeisser, Morris & Associates
- Auditor.....CliftonLarsonAllen

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

Kapphahn motioned, seconded by Schmidt, to designate the District bank depositories and insurance as follows:

DEPOSITORIES

- Bank of the West.....Wheaton, MN
- Bremer Bank Morris, MN

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

Wold motioned, seconded by Beyer, to designate the District bank depositories and insurance as follows:

INSURANCE COVERAGE

League of Minnesota CitiesSaint Paul, MN

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

Board managers recommended that the 1W1Plan Committee be terminated, and add flexibility for multiple Construction Committees (instead of one designated committee) to include a representative for the county in which the project is located. Board managers requested that the RRWMB delegate be determined in October.

Kapphahn motioned, seconded by Beyer, to approve the 2021 – 2022 Annual Organization Resolution. Roll call vote: Wold – aye, Deal – aye, Beyer – aye; Schmidt – aye; Kapphahn – aye; Vavra – aye. Motion carried.

**PRESIDENT
MOORE
ENGINEERING**

District Engineer Chad Engels introduced Moore Engineering President Kevin Bucholz, who thanked the board for their efforts and relationship.

Beyer motioned, seconded by Schmidt, to adjourn the meeting at 12:09 PM.