

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
August 19, 2021**

- CALL TO ORDER** The meeting was called to order by President Vavra at 8:00 a.m. Present in the District Office: Linda Vavra, Benjamin Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt, Allen Wold. Also present in the District Office: District Engineer Chad Engels, Attorney Lukas Croaker, and Administrator Jamie Beyer. Joined remotely: Engineer James Guler. Absent: Engineer Technician Troy Fridgen. Arrived later: Jason Beyer.
- AGENDA** Dahlen motioned, seconded by Schmidt and carried unanimously, to approve the agenda with the following changes: additions – JD #6 Change Order No. 1, JD #11 Change Order No. 8, Big Lake Hearing, Nuisance Bill; removal – Permit Application #21-108, Mark Severance.
- CONSENT AGENDA** Upon motion by Deal, seconded by Dahlen and carried unanimously, the Consent Agenda was approved.
- PUBLIC COMMENT: LAKE TRAVERSE ASSOCIATION** Under Public Comment, Dan Swartz described the reestablishment of the Lake Traverse Association. They have designated a 7-person board, including a treasurer, and one of their primary objectives is to work the Army Corps of Engineers to raise the Lake Traverse Conservation Elevation of 976'. Memberships are available from \$10 - \$30.
- PUBLIC COMMENT: WELL DRILLING** Milo Fisher of All State Well Drilling reported that in his service area, Western Grant County and the Wendell area, he has had three 500' wells lose 30 – 60' of water over the past 10 – 15 years.
- TCD #9 PETITION K. BERGER** Deal motioned, seconded by Dahlen and carried unanimously, to open the hearing to consider the petitions from Kelly Berger and Trent Conroy to use Traverse County Ditch #9 as an outlet for parcel #10-0042000, SE1/4, Section 9, Range 45, Redpath Township, Traverse County (S9, R45, T128) and parcel #10-0059000, SW1/4, Section 14, Range 45, Redpath Township, Traverse County (S14, R45, T128), respectively. President Vavra opened the hearing. 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.
- TCD #9 PETITION T. CONROY** Parcel #10-0042000 was presented first. This parcel is outside of the subwatershed according to LiDAR information, but parcels on both sides are already included in the benefitted area. Mr. Chad Berger reported that the land has a high water table and is difficult to farm. The project is controlled with a pump, and the flow will be pumped to the north, but will gravity flow to the ditch on the east of the parcel to the south. Attorney Lukas Croaker read the order. Gillespie motioned, seconded by Deal and carried unanimously, to approve the Order Authorizing the Use of TCD #9 as an Outlet with the condition that the tile pump be turned off when the banks of TCD #9 are full of water and/or breaking out into adjacent fields along any portion of TCD #9.
- Parcel #10-0059000 was presented next. The parcel is located within the subwatershed according to LiDAR information. Attorney Croaker read the order. Gillespie motioned, seconded by Dahlen and carried unanimously, to approve the Order Authorizing the Use of TCD #9 as an Outlet.
- Gillespie motioned, seconded by Schmidt and carried unanimously, to close the hearing.
- BLUME & BATES PETITIONS** Kapphahn motioned, seconded by Schmidt and carried unanimously to set a public hearing on September 16, 2021 for petitions submitted by Timothy Bates and Dominic Blume to Outlet into TCD #23.
- PERMIT APP. #21-093 D. AMUNDSON** The permit applicant described the project, as designed with input from neighboring landowners. The proposed project would include an 18" dual wall tile main that would direct flow northeast to a grassed area. The project plan, as proposed, does not meet the 1/4" drainage coefficient. Engineering staff, however, assumed that the project was located in a closed subwatershed basin, which the applicant confirmed is not the case. Gillespie noted that the proposed project will reduce overland flooding for neighboring properties and does add some flood storage. President Vavra commended the applicant on working together with neighbors to solve common drainage problems. The applicant intends to close existing clay inlets, if possible, and the southern draw; in the future, he would consider French

drains as a replacement to existing inlets. Gillespie motioned, seconded by Dahlen, to permit an 18" tile main with the condition that surface inlets not exceed 15" diameter.

**PERMIT APP.
#21-066
D. HOLTE**

Engineering staff coordinated a survey of culverts blocked in Western Township, Sections 32/33, on property owned and managed by the DNR. It was discovered that an extremely thick cattail root mass is blocking the bottom 3' of both the north and south culverts, forcing water flows to overtop adjacent roads. In addition, the natural stream corridor through the DNR property is no longer identifiable as it has been overtaken by cattails. Western Township sent a letter to the DNR, and Otter Tail County may be sending one also, alerting the DNR to the hazardous conditions. Board Manager Brutlag reported that conditions are repeated along several stretches of the stream corridor. Board managers reviewed a letter drafted by engineering staff to the DNR inviting them to the September board meeting to discuss the issue further. Dahlen motioned, seconded by Kapphahn and carried unanimously, to authorize staff to send the notice.

**PERMIT APP.
#21-106
G. MURPHY**

Gene Mensen from Litzau Farm Drainage described a subsurface drainage project proposed in an area where four subwatersheds meet. The project spans approximately 60 acres. Gillespie motioned, seconded by Schmidt and carried unanimously, to set a public hearing on September 16, 2021 if the Administrator receives a signed Petition to Outlet into TCD #52.

**PERMIT APP.
#21-114
DOLLYMOUNT
TOWNSHIP**

The permit application represents half of the response to landowner flood complaints on the Stevens / Traverse County line. Landowners south of Traverse County Road 6 have been encouraged to file a petition for a new drainage system. Landowners north of Traverse County Road 6 have been encouraged to pursue a road raise project that will include improved drainage to mitigate flood damages and provide temporary flood storage, adding a degree of separation between lands that drain into TCD #8 and TCD #37.

The proposed project would include: raising a portion of 640th Avenue north of Traverse County Road 6, improvement of the road ditch on the east side by widening the bottom by 5', resizing of several field approach culverts, and the lowering and replacement of a box culvert at the northwest corner of Section 7. District Engineer Chad Engels recommended two conditions: 1) that the ditch adjacent to the township road in Sections 11 and 12 also be improved with a 5' ditch bottom, and 2) that existing dikes in Section 7 and 18 of Eldorado Township be lowered to an elevation designated by engineering staff (as the adjacent road and field elevations vary; the dikes would be lowered so that there is no chance for the adjacent road to overtop prematurely). Dollymount Township officials expressed concern about a Stevens County culvert in Section 18 that they feel should be reduced. Board Manager Steven Schmidt described the current flow, which is diverted 100% south to TCD #37. This project would split some flows to TCD #8.

Attorney Lukas Croaker reported that around 10:00 pm on August 18, 2021, he had received a 3-page letter from Attorney Bennett Johnson, representing Ms. Marilyn Mathias and Mr. Jonathan Mathias regarding the permit application. Attorney Lukas Croaker asked the Mathias' if they wished for the letter to be read; Mr. Jonathan Mathias declined and provided his comments directly to the Board which included a concern that conditions he discussed previously with District Technician Fridgen and District Engineer Engels were not included in the permit.

District Engineer Chad Engels emphasized that the conditions described were a direct result of an in-person meeting held with Mr. Jonathan Mathias. All drainage currently flows south in the ditch to a ditch blockage; the future condition (with obstructions removed) would direct a portion of the flow to the north. Board managers discussed their options with regard to downsizing the Stevens County culvert in Eldorado Section 18, but decided to leave the requirement out of permit conditions to allow Dollymount Township and Stevens County officials flexibility to come to an agreement outside of the District's permit. District Engineer Chad Engels stated that right-of-way may need to be acquired by the Dollymount Township due to the ditch widening. Mr. Jonathan Mathias requested that a culvert with a flapgate be installed along the north side of Section 7 of Eldorado Township; District Engineer Chad Engels agreed to add the condition. Dahlen motioned, seconded by Gillespie, to approve the permit application with the conditions described by the District engineer.

**WCD #9 BUDGET
UPDATE &
LIQUIDATED
DAMAGES
DISCUSSION**

Engineer James Guler described information discussed at the District's Construction Committee Meeting regarding the timeline, construction costs, and contractual terms with Riley Brothers for the Improvement of WCD #9. Engineer James Guler provided the project timeline which included: the Notice to Proceed issued June 3, 2019; excavation that began August 5, 2019; contractual Substantial

Completion that was not met on November 28, 2019; project seeding that began on July 6, 2020 that was followed by a large rain event that occurred on July 8, 2020; designation of Substantial Completion on October 16, 2020 and the consideration of a designation of Final Completion. There were added costs for construction and corresponding change orders on the project, but additionally there were engineering and inspection costs incurred because dates in the construction contract were not met. Engineering staff recommended that \$62,895.10 in expenses incurred between the contractual Substantial Completion and Final Completion Dates be split 50/50 with the contractor, and \$23,545.82 expenses incurred after the contractual Final Completion Date be assigned 100% to the contractor. Gillespie motioned, seconded by Dahlen and carried unanimously, to authorize engineering staff to deduct \$54,993.37 from the Final Application for Payment as liquidated damages, as described in Chapter 4.03 of the Construction Contract. Board Manager Kapphahn encouraged engineering staff to speak with the contractor ahead of the hearing. The information discussed will be incorporated in the Minn. Stat. § 103E.555 Engineer's Report, which will be filed with the Administrator, who will set the required public hearing.

**JD #11
CHANGE ORDER
NO. 8** Board managers reviewed Change Order No. 8 submitted by the contractor, explaining delays to the repair of the drainage system outlet and requesting that Final Payment Date be changed from August 31, 2021 to September 30, 2021. Dahlen motioned, seconded by Deal and carried unanimously, to approve Change Order No. 8 which extended the Final Payment (Completion) Date.

**JD #6
PAY APPLICATION
NO. 1** Engineering staff provided an update of the repair of JD #6. The railroad bored its culvert, and a corresponding channel was excavated by Wagner Company. Pay Application No. 1 was presented, in the amount of \$350,973.30. Board managers reviewed Change Order No. 1, in the amount of \$1,100 for rock piles to be hauled off-site, and a breakdown of costs to be applied to the ditch bond. Kapphahn motioned, seconded by Schmidt and carried unanimously, to approve Pay Application No. 1, Change Order No. 1, and application of expenses to the ditch bond.

**BEAVER
INVOICE** Schmidt motioned, seconded by Gillespie and carried unanimously, to approve payment to Trapper Don, in the amount of \$1,000 for the removal of nuisance beavers from three drainage systems.

**BUDGET,
GENERAL LEVY, &
CONSTRUCTION
LEVY HEARINGS** Dahlen motioned, seconded by Schmidt and carried unanimously, to open the public hearing on the 2022 General Budget, Construction Fund, and the levies for the Drainage Ditch Systems and projects under the Bois de Sioux Watershed District's jurisdiction. Administrator Beyer presented the 2022 General and Construction Fund budgets and corresponding proposed levies. The RRWMB approved a levy at 75% for 2022. Preliminary ditch assessments were also presented, but will not be finalized until a public hearing is held in December. Additional cuts to the General Levy may be considered in December. Gillespie motioned, seconded by Dahlen and carried unanimously, to approve the Resolution of Ad Valorem Levy that included a General Levy of \$200,000 and a Construction/RRWMB Levy of \$1,662,633.55 and the Preliminary Ditch Assessments of \$833,997.00. Deal motioned, seconded by Dahlen and carried unanimously, to close the hearing.

**SOUTHERN
BOUNDARY** The Board of Water and Soil Resources ordered and scheduled a public hearing for revisions to the District's southern boundary, west of State Highway 75.

**640TH ROAD RAISE
ELDORADO TWP
DITCH** The 640th Avenue Road Raise and Eldorado Township Ditch agenda items were discussed earlier in the meeting in relation to Permit #21-114.

**NORTH OTTAWA
O & M
AGREEMENT** Attorney Lukas Croaker presented proposed responses to the DNR's changes to the North Ottawa 10-Year Operation and Maintenance Agreement. Kapphahn motioned, seconded by Dahlen and carried unanimously, to authorize the attorney and staff to convey the responses to the DNR.

**NORTH OTTAWA
RYE** Board Manager John Kapphahn stated that rye grass has been seeded in two weed and cattail dominated cells as a cover crop in an effort to suppress unwanted growth.

**BEYER
ARRIVES** Board Manager Beyer arrived at the meeting.

REDPATH UPDATE Engineering staff continue answering questions from the DNR regarding design details of the Redpath Flood Impoundment, as the DNR considers granting a permit. Moore Engineering staff submitted two grant requests to BWSR – one grant application on behalf of the Mustinka River Rehabilitation Project and one grant application on behalf of Redpath Flood Impoundment Phase 1, the Relocation of TCD #35. The

Minnesota LCCMR Committee will meet August 26th to discuss selections for their recommendations to the legislature for LCCMR grant awards. The Mustinka River Rehabilitation Project is strongly scored.

**REDPATH
PURCHASE
AGREEMENTS**

Attorney Lukas Croaker stated that, although purchase agreements were signed in 2020, two of the seven Bartell family members have not signed the required closing documents for 1.01 acres of land acquired for the Redpath Flood Impoundment. The closing documents were provided September 25, 2020. Efforts by the District's legal representation and staff to collect the paperwork from the two family members have not been successful. Dahlen motioned, seconded by Wold and carried unanimously, to authorize the District's attorney to begin enforcement of the terms of the signed purchase agreement, if needed.

**BIG LAKE
LANDOWNER
MEETING**

Prior to the formal pursuit of a public waters permit from the DNR, engineering staff recommend that a public landowner meeting be scheduled to collect the required landowner signatures. Beyer motioned, seconded by Gillespie and carried unanimously, to proceed with a landowner meeting.

WOLD LEAVEES

Wold left the meeting.

**RRWMB
BUS TOUR**

Following the Red River Watershed Management Board meeting that was hosted at the District Office on August 17, 2021, attendees took a bus tour of the Lake Traverse Water Improvement Project (Phases 1 and 2), and visited the Reservation and the White Rock Dams. Representatives and staff from the following organizations participated: Red River Watershed Management Board, MN DNR, Red River Basin Commission, Flood Damage Reduction Work Group, Red River Retention Authority, Army Corps of Engineers, Lake Traverse Association, Traverse Soil and Water Conservation District, Moore Engineering, and the Bois de Sioux Watershed District.

**LTWQIP NO. 1
PHASE #1**

Engineer James Guler informed Board managers that construction of the Minn. Stat. § 103D.605 Lake Traverse Water Quality Improvement Project No. 1 – Phase I is complete. Staff will prepare a final engineer's report and coordinate the final payment process.

**LTWQIP NO. 1
PHASE #2**

Gillespie motioned, seconded by Kapphahn and carried unanimously, to approve the Purchase Agreement between the Bois de Sioux Watershed District and James E. Graham Estate, for the purchase of buffers and easements, in the amount of \$27,086.00. The Federal 404 Permit has been received for this project, a construction bid has been advertised, and the District is waiting to receive a Public Waters permit from the DNR.

**LTWQIP NO. 1
PHASE #3**

Engineering staff continue to work on design details. Reducing velocities is a challenge to this phase of the project. Grant applications are being submitted to BWSR and to the RRWMB on behalf of this project.

RRWMB UPDATE

Rob Sip, Executive Director of the Red River Watershed Management Board (RRWMB), provided an update of the organization's activities, including LiDAR data collection scheduled Fall 2021, financial details and project spending trends, and legislative achievements.

**COUNTY RESOL-
UTION & LETTER
OF INTEREST**

Dahlen motioned, seconded by Gillespie and carried unanimously, to authorize staff to provide District county commissions with the Resolution of Support to Delay Land Acquisition to Promote Acquisition of Permanent Drainage Easements and a letter of interest in Federal American Rescue Plan County Aid funds.

The meeting was adjourned at 1:05 pm.