

**BOIS DE SIOUX WATERSHED DISTRICT  
BOARD MEETING MINUTES  
December 16, 2021**

- CALL TO ORDER** The meeting was called to order by President Vavra at 9:00 a.m. Present in the District Office: Linda Vavra, Ben Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, Steven Schmidt, Allen Wold. Absent: Jason Beyer, John Kapphahn. Also present in the District Office: District Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA** Wold motioned, seconded by Gillespie and carried unanimously, to approve the agenda with the following additions: Lake Samantha, Doran Lake, Ditch Inspections, 640<sup>th</sup> Ave Road Raise, WCD #25, WCD #35, Leveling Spoils, BWSR Update.
- CONFLICTS OF INTEREST** No conflicts of interest were declared.
- CONSENT AGENDA** Upon motion by Deal, seconded by Dahlen and carried unanimously, the Consent Agenda was approved.
- PUBLIC COMMENT** No public comment was presented.
- DITCH INSPECTIONS** Engineer Technician Troy Fridgen presented the Area Two Annual Ditch Inspection Report, pursuant to Minn. Stat. Section 103E.705, Subd. 1. Drainage ditches under the District's authority are inspected on a three year cycle, with 1/3 of the systems inspected in a single year. Some repairs were made to the ditches in 2021, but a more comprehensive repair plan will be put together over the winter. There are a number of culverts that need to be replaced in coordination with efforts from road authorities.
- 640<sup>TH</sup> AVE ROAD RAISE / DOLLYMOUNT** Attorney Lukas Croaker and Engineer Technician Troy Fridgen recently attended a Dollymount Township meeting to discuss the 640<sup>th</sup> Avenue Road Raise Project and Agreement. Township officials' primary concern is what would happen if the project creates unanticipated negative conditions for TCD #8 landowners. Board Manager Steven Schmidt emphasized that damages currently occur when water overtops 640<sup>th</sup> Avenue, and that the project will reduce overtopping and control flow during small events. Board Manager Gillespie stated that there were a lot of "what if's" when the TCD #37 retrofit was proposed.
- KAPPAHN & DOLLYMOUNT** Board Manager John Kapphahn and Dollymount Township Supervisor Steve Fridgen arrived at the meeting.
- 640<sup>TH</sup> AVE ROAD RAISE / DOLLYMOUNT** Attorney Lukas Croaker recommended that Dollymount Township contract with an independent engineer and/or attorney, in order to ensure that the township's rights and responsibilities are verified and protected. District Engineer Chad Engels stated that an alternative process to complete the road raise project would be for the damaged landowners to petition for a new legal ditch, prompting viewing proceedings. If a petition was filed, the Bois de Sioux Watershed District could complete the project as the drainage authority. Action on the road raise agreement was tabled so the Township supervisors could discuss further and obtain engineering and/or legal counsel.
- BUDGET, LEVY, & ASSESSMENT HEARINGS** Deal motioned, seconded by Dahlen and carried unanimously, to open the Public Hearing on the Budgets and Levies for the 2022 General Fund, Construction Fund, and Budget and Assessments for the Ditch Systems. Budgets and fund balances for 2021 were reviewed, along with the corresponding proposed 2021 assessments and levies. Kapphahn motioned, seconded by Dahlen, to approve the Amended 2021 General, Construction, and Ditch Budgets. Budgets and fund balances for 2022 were reviewed, along with the corresponding proposed 2022 assessments and levies. Dahlen motion, seconded by Kapphahn and carried unanimously, to approve the 2022 General and Construction Budgets. Board managers and staff reviewed the proposed 2022 ditch assessments. A significant cleanout was completed on TCD #38, authorized by the board at the July 15, 2021 meeting, resulting in a notable increase in the assessment in response. Deal motioned, seconded by Dahlen and carried unanimously to approve the 2022 Ditch Assessments. Upon motion by Dahlen, seconded by Schmidt and carried unanimously the Resolution of Ad Valorem Levy Tax (with a \$178,700 General Fund ad valorem levy tax and a \$1,662,633.55 Construction Fund ad valorem levy tax) and the Resolution for Ditch Assessment Levies (in the total amount of \$858,647.00). Roll

call vote: Schmidt – aye, Dahlen – aye, Deal – aye, Wold – aye, Brutlag – aye, Kapphahn – aye, Gillespie – aye, Vavra – aye. Motion carried. Upon motion by Brutlag, seconded by Schmidt and carried unanimously, the public hearing was closed.

**DORAN CREEK  
WCD #25 & #35** Due to Board Manager Jason Beyer’s meeting absence and interest in Doran Creek, WCD #25, and WCD #35, District Engineer Chad Engels requested that the agenda items be moved to the January 2022 board meeting.

**SPOILS LEVELED** Upon motion by Kapphahn, seconded by Schmidt and carried unanimously, a transfer of \$28,585 from the District’s Buffer/Riparian Aid Fund was approved for leveling spoils on ditch buffers following cleanouts for: JD #11 (\$1,125), TCD #9 (\$10,725), TCD #23 (\$2,325), TCD #27 (\$5,790), TCD #37 (\$1,757.50), TCD #38 (\$2,960), TCD #44 (\$3,422.50), WCD Sub-1 (\$480).

**SAMANTHA LAKE  
& ELBOW LAKE** District Engineer Chad Engels stated that an Elbow Lake project is not a priority for the DNR based on a recent meeting held with the agency. Board Manager John Kapphahn stated that an effort is being made amongst property owners to establish a lake association for Elbow Lake. Dahlen motioned, seconded by Schmidt and carried unanimously, to authorize District Engineer Chad Engels to attend a meeting with the proposed association members.

**103E.341 FINAL  
HEARING  
TCD #35** Deal motioned, seconded by Dahlen and carried unanimously, to open the Final Hearing on the Improvement Petition, Detailed Survey Report, and Viewers’ Report for the Redetermination of Benefits and Damages for the Improvement of Traverse County Ditch #35 (TCD #35). Attorney Croaker introduced the hearing procedures and confirmed that Viewers Mark Dietz, Dwight Veldhouse, and Donald Metz were present.

Engineer Guler described the purpose of the project – to relocate the drainage system utility in preparation for construction of the Redpath Flood Impoundment, and to improve the current channel grade and cross section. Attorney Croaker confirmed that the District’s engineer found that: the improvement is necessary, a proper petition has been submitted, and that the benefits of the proposed project exceed the project’s estimated costs, including damages paid.

Engineer Guler presented the Detailed Survey Report, which included a project map, culvert analysis, channel cross sections and plan profile sheets. The project will deepen the ditch, and the ditch will be shifted south, further from adjacent roads in order to provide room for the future Redpath Impoundment levees. The outlet for the project, JD #14, L1, is in Section 20 of Redpath Township. Landowner comments influenced the inclusion of an overflow channel to the north along the west line of Section 21, constructed in association with the Redpath Impoundment. Side inlet culverts are included in the project, but locations will be finalized on-site with landowners during construction. Culvert crossings through road intersections immediately south of the future impoundment will appear long for the current road, however, the length is intended for construction of the future impoundment levy and road. The estimated total cost for the project is \$2,623,000 with no local cost. It is anticipated that this project would be funded by cost-share grant funds from BWSR, RRWMB, DNR, and BdSWD. This cost includes removal and replacement of a full layer topsoil where the future Redpath levee will be constructed.

Attorney Croaker described the formal process, and the Viewers’ Report and Property Owner’s Report were reviewed. The Viewers’ Report sets a monetary maximum limit for ditch construction, assigns a proportion of ditch expense (as a percentage) that each benefited 40-acre parcel is responsible for, and sets the damages payment to landowners for acquisition of easements. Factors affecting these figures are soil types, proximity rating and hydraulic efficiency. Viewer Veldhouse provided a presentation, section-by-section. For this project, all soils were rated “B.” Viewer Veldhouse introduced the Viewers’ Report and described their methodology. Details about the redetermined assessment district were given, including compensation for the easements that will be required:

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|---|---|
| Permanent Ditch Channel<br>berm, and buffer area. | Will apply to the area encompassed by the road, ditch channel and   |
| Easement  | Landowners will be compensated for the amount of this land that is currently being cultivated at \$6,500/acre. They will not be able to cultivate it in the future. |

Permanent Backslope Easement.	Will apply to the area adjacent to the Permanent Ditch Channel
I Easement	Landowners will be compensated at \$300/acre and the District has the right to use the area for construction for two years (for a total of \$600/acre). The land can be used by the District for maintenance, repairs, and spoils, but District activities cannot damage crops without compensation.

Engineer James Guler stated that the DNR Advisory Report was received December 13, 2021, and read the report into the record. The DNR Advisory Report approved the Detailed Survey Report and stated that the project promotes public utility and benefit.

Landowners were given an opportunity to provide comments. Several questions were answered during the engineer and viewers' presentations.

Attorney Lukas Croaker read the proposed Findings of Fact and Order. Kapphahn motioned, seconded by Dahlen, to approve the Findings of Fact and Order (approving the Viewers' Report, Engineer's Detailed Survey Report, the redetermination of benefits and damages, the establishment of the improvement project, directing the engineer and Administrator Beyer to prepare bidding and construction documents, and ordering easement acquisition). Roll call vote: Schmidt – aye, Dahlen – aye, Deal – aye, Wold – aye, Brutlag – aye, Kapphahn – aye, Gillespie – aye, Vavra – aye. Motion carried. Upon motion by Deal, seconded by Dahlen and carried unanimously, the public hearing was closed.

**WOLD LEAVES** Wold left the meeting.

**SOUTHERN BOUNDARY** A public hearing to discuss the Southern Boundary was held by BWSR in November in Graceville, MN. Attorney Croaker, District Engineer Chad Engels, President Linda Vavra, and Administrator Jamie Beyer attended. District Engineer Chad Engels presented the proposal section-by-section. There were no landowner comments presented in response. The BWSR Board will consider the proposed boundary adjustment for approval at its January 2022, board meeting.

**REDPATH & MUSTINKA GRANT APPLICATION** Gillespie motioned, seconded by Dahlen and carried unanimously, to authorize Moore Engineering staff to submit a grant application to the Fargo-Moorhead Diversion Authority on behalf of the Redpath Impoundment & Mustinka River Rehabilitation Project.

**CWF GRANT AWARDS** The District was notified today that it was awarded three Minnesota State Legacy Amendment BWSR Clean Water Fund grants: Redpath Flood Impoundment Phase 1, \$320,000; Lake Traverse Water Quality Improvement Project No. 1 Phase #3, \$800,000; Mustinka River Rehabilitation, \$800,000.

**LTWQIP NO. 1 PHASE #2** Engineer James Guler presented an update on Phase #2 on the Lake Traverse Water Quality Improvement Project No. 1; all work, except seeding and stormwater protection, is completed. Dahlen motioned, seconded by Deal and carried unanimously, Pay Application No. 1 in the amount of \$374,216.87, was approved.

**LTWQIP NO. 1 PHASE #3** Design for Phase #3 is 80% complete. Landowner meetings are expected Spring 2022.

**RING DIKE POLICY** Attorney Lukas Croaker described the drafted Ring Dike Policy. President Linda Vavra stated that RRWMB is currently revising its policy, and that it would be prudent to wait until it is complete before finalizing the District's policy.

**ENGINEERING & LEGAL RATES** Dahlen motioned, seconded by Schmidt and carried unanimously, to approve the 2022 Moore Engineering Preferred Billing Schedule and a \$10/hour increase for Attorney Lukas Croaker.

**NORTH OTTAWA AGREEMENT** Attorney Lukas Croaker described changes to the proposed 2021 – 2030 North Ottawa Operation & Maintenance Agreement. Gillespie motioned, seconded by Kapphahn and carried unanimously, to approve the agreement. Board Manager John Kapphahn requested that staff investigate gates to prevent damage to roads and levies.

**DATA PRACTICES POLICIES** Kapphahn motioned, seconded by Gillespie and carried unanimously, to approve the revised Policies and Procedures for Public Access to Documents & Data Protection.

Administrator Beyer notified the board of upcoming term expirations: Dahlen (Grant); Vavra (Stevens); Deal (Traverse). A position description will be sent, along with a notice of expiration, to the affected counties.

**INTERNAL  
INTEREST RATE  
DESIGNATION**

Administrator Jamie Beyer recapped that in 2019, board managers requested that a set index be used for the District's internal interest rate and in 2020, Accountant Renee Kannegeisser recommended that the District use the Long-Term Federal Interest Rate for December, which was 1.45% in December 2020. Gillespie motioned, seconded by Kapphahn and carried unanimously, to update the internal interest rate to 1.9%.

**JCWMP WBIF  
DISBURSEMENT**

Dahlen motioned, seconded by Deal and carried unanimously, to approve the Joint Comprehensive Watershed Management Grant reimbursement request in the amount of \$180,814.37.

**STAFF &  
ADMINISTRATOR  
INCREASES**

Board Manager Scott Gillespie relayed Personnel Committee recommendations. The committee reviewed staff raises for 2022. Staff were provided a 1%, 3%, and 2% increases for 2018, 2019, and 2020, respectively, at rates lower than county offices. The Personnel Committee commended staff for their quality of work, permit processing efficiency and speed, and project completion. The current 6.2% inflation rate and 9% health insurance rate increase were also discussed. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, effective January 1, 2022, rates for staff were increased by 5% and the hourly rate for part-time Administrator Beyer was increased by \$5/hour.

**BY-LAWS, RULES  
& POLICIES  
UPDATE**

Staff discussed the need for dedicated time to review the proposed revisions to the District's by-law's, rules, and policies. Board managers decided to hold a special meeting January 27, 2022 to thoroughly review the documents.

Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the meeting was adjourned at 2:20 pm.