

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
April 18, 2024**

- CALL TO ORDER** The meeting was called to order by President Vavra at 8:00 a.m. Present in the District Office: Linda Vavra, Jason Beyer, Ben Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt and Allen Wold. Also present: Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA** Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the agenda was approved with the following additions: JD #11 Culvert Cost Share, June Board Meeting Date Discussion.
- CONFLICT OF INTEREST** Board Manager Kapphahn declared a conflict of interest with Lake Samantha and Board Manager Beyer declared a conflict of interest with WCD #39 Outlet.
- CONSENT AGENDA** Upon motion by Kapphahn, seconded by Beyer and carried unanimously, the Consent Agenda was approved.
- PUBLIC COMMENT** No public comment was stated.
- GCD #3 – B4 ABANDON PORTION OF LEGAL DRAINAGE SYSTEM** Motion by Kapphahn, seconded by Dahlen and carried unanimously, to open the public hearing to consider the petition requesting partial abandonment of Grant County Ditch #3, Lateral B4 in Parcel # 14-0043-000, N1/2NE1/4 of Section 9, Range 42, Roseville Township (127), Grant County. Attorney Lukas Croaker described the partial abandonment process. Mr. Douglas Olson described future drainage plans for the parcel; a private subsurface drainage project has been approved by the District (but may be built in phases) to replace the public open channel and a drainage easement for the upstream landowner has already been signed. Parcel #14-0043-000 will continue to utilize the legal drainage system. Engineering staff stated that the partial abandonment of the drainage system channel lateral will not affect the parcel's benefits or the legal drainage system assessment district as the parcel will still outlet into GCD #3 with the installation of private subsurface drainage tile. Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the abandonment was approved. Upon motion by Dahlen, seconded by Schmidt and carried unanimously, the hearing was closed.
- 103D.605 PUBLIC HEARING DORAN CREEK RESTORATION** Upon motion by Beyer, seconded by Dahlen and carried unanimously, the Minn. Stat. § 103D.605 public hearing to establish a project as part of the District's comprehensive plan was reconvened: Doran Creek Stream Rehabilitation Project. President Vavra stated that the Red River Watershed Management Board recently approved a \$90,000 grant award for project development. Landowners requested information on general and specific channel extents and widths. Landowners asked if trees and habitat will be lost. District Engineer Chad Engels stated that this project will be a rehabilitation of a natural stream, and grant funds will be used to enhance and increase natural resources and wildlife habitat; these benefits make the project eligible for several outside grant programs. Various additional questions included difference in assessment values based on land use, location of accessory structures to the channel, whether water will continuously flow in the channel, the start and terminus of the project, sediment disposal after excavation, whether the extents of the channel will be vegetated after construction, timeframe for project construction, easement acquisition, and whether preventative measures are included in the project to prevent sediment loading. Project Manager Garrett Monson and Assistant Engineer Guler responded to the various questions and provided maps of the proposed project locations and water management district. The proposed water management district could be implemented and used to provide landowner cost-share for the project (proceedings for establishment of a project assessment district will be developed at a later time). Upon motion by Kapphahn, seconded by Beyer and carried unanimously, the project was approved for establishment. Upon motion by Kapphahn, seconded by Beyer and carried unanimously, the hearing was closed.
- PERMIT #24-021 D. OACHS** Engineering staff requested that the permit be placed on the agenda to provide an opportunity for public comment. The proposed project would drain to Grant County Ditch No. 8. According to desktop LiDAR modeling used by the District, the project appears to cross a subwatershed boundary; however, a culvert exists that is not reflected in the LiDAR modeling. As a result, the current flow path of the area to be drained is to Grant County Ditch No. 8 and there is no subwatershed conflict. Staff approved the permit with the condition of approval by the ditch authority - Grant County.

WCD #39 OUTLET REPAIR	Engineering staff presented findings at the outlet of WCD #39. Two culverts at the location may be undersized, but further data is needed of the size, elevation, and contributing areas of upstream culverts prior to sizing. It is unknown if Campbell Township officials are interested in replacing the culvert through the road. Board Manager Beyer stated that the township road overtops at the site. Staff have identified an area of erosion between the outfall culvert to the Bois de Sioux River and the township road culvert that could be stabilized to reduce sediment transport to the river. Engineering staff recommend that stabilization of the channel be initiated. This project would be eligible for Clean Water grant funds. Engineer Technician Troy Fridgen stated that a similar issue exists within the TCD #46 legal drainage system. Administrator Jamie Beyer is working on the next Watershed Based Implementation Fund grant workplan, and will include these projects. If awarded, construction could begin this fall.
CLA AUDIT 2023	Ms. Miranda Wendlandt of CliftonLarsonAllen provided a presentation of the District's audit conducted in accordance with generally accepted accounting principles. Upon motion by Schmidt, seconded by Dahlen and carried unanimously, the 2023 audit and financial statements were approved.
IMPROVEMENT OF BCD #8	Legal and engineering staff drafted a petition for the Improvement of BCD #8. As discussed in previous board meetings, successful construction of the Moonshine Flood Impoundment will necessitate stabilization of BCD #8, which serves as the Impoundment's outlet. BCD #8 construction will be completed under Minn. Stat. Ch. 103E improvement proceedings; by definition, the addition of storage to the legal drainage system requires that improvement proceedings be followed. Bonds are used to cover the costs associated with improvement reports and plans if the project is not established or a contract for construction of the project is not awarded; because the District is a landowner within the BCD #8 assessment district, the District can fulfill bond requirements. District Engineer Chad Engels stated that – due to the sediment and phosphorus reductions that will be realized for impaired Lannon and Toqua Lakes, and the addition of flood impoundment storage – this project will be a competitive candidate for outside grant funding. Upon motion by Beyer, seconded by Dahlen and carried unanimously, the District is authorized to fulfill bond requirements as a landowner and in recognition of the wider impacts that the stabilization and impoundment designs will provide beyond BCD #8 landowners.
GCD #3	Engineering staff continue to work on plans and specifications for bid for the repair project.
GCD #21	Presently, GCD #21 viewers are finalizing their amended viewer reports, and engineering staff are finalizing their repair and improvement cost estimates and amended engineer report. Landowners requested design changes: original main channel has been requested for repair/improvement; one surface channel has been changed to two parallel subsurface tiles; Branch 3 has been requested for repair/improvement. The amended viewers' reports will propose repair costs distributed throughout the assessment district, and will restrict proposed improvement costs to their associated lateral drainage areas. Board Managers supported the use of a special meeting to reconvene GCD #21 public hearings, possibly in June.
640TH AVE ROAD RAISE	Easement has not been granted from landowner Ms. Marilyn Mathias. District and township engineering staff have met several times with Mr. Jonathan Mathias and Ms. Marily Mathias, and have changed project design features in response to their requests. Attorney Lukas Croaker stated that, although not a desired option, eminent domain may be used to secure project easement right-of-way. Board Manager Gillespie will try to meet with the Mathias family to finalize project terms and attempt to secure the required easement.
JD #11 LAT. 4	Engineer Technician Troy Fridgen received a request to correctly size a culvert on JD #11, Lateral 4. Upon motion by Schmidt, seconded by Beyer and carried unanimously, cost share was approved, in the amount of the difference between the cost of a 42' culvert less a 24' culvert.
WCD #SUB-1	Board Manager Beyer relayed concerns that there are two culverts on WCD #Sub-1 that were left without flapgates; District Engineer Chad Engels stated that the contractor has been notified to complete the work.
BDSWD #5 PUBLIC HEARING	The Preliminary Engineer's Report was submitted to the DNR. Upon motion by Dahlen, seconded by Kapphahn, and carried unanimously, the Minn. Stat. § 103E.261, subd. 2 hearing will be held May 18 th contingent upon confirmation that the MnDNR's Advisory Letter can be submitted for inclusion with the hearing.

**REDPATH FLOOD
IMPOUNDMENT
TILE PUMPS**

Engineering consultants presented the locations of two active private tile drainage pumps that are located on lands acquired by the Bois de Sioux Watershed District for the Redpath Flood Impoundment that need to be relocated to private lands in advance of impoundment construction. Subcontractor Ellingson has stated that it will be difficult, if not impossible, to locate parts for the aged pumps in order to relocate them. Board Managers Gillespie and Brutlag discussed the additional horsepower that will be needed for the relocated pumps to provide adequate coverage in the new locations. Upon motion by Dahlen, seconded by Beyer and carried unanimously, legal and engineering staff are authorized to work with landowners to remove pumps on District land and replace capacity with new pumps on private lands. Attorney Lukas Croaker stated that a license agreement and/or temporary construction easement may be needed.

**103F.48 BUFFER
ENFORCEMENT**

Attorney Lukas Croaker stated that District staff and board managers met with Traverse SWCD buffer staff, Traverse SWCD Board, Wilkin SWCD Board, and Grant SWCD Buffer Committee to discuss the District's Preferred Alternative Buffer Practice, NRCS Field Office Technical Guide Practices, and current SWCD procedures and alternative buffer plans related to buffer enforcement. Grant SWCD and Traverse SWCD staff invited and included buffer enforcement representatives from the Board of Water and Soil Resources to attend the meetings. District staff confirmed that each SWCD implements preferred subsets of alternative practices referenced under the NRCS Field Office Technical Guide: Traverse SWCD limits eligible practices to three promoted by BWSR; Grant SWCD prohibits alternative practices (including those promoted by BWSR) in areas with positive slopes and recently enacted a prohibition for the installation of alternative practices without prior installation of the 16.5' buffer; Wilkin SWCD has utilized side inlet culverts and whole field no-till. SWCD staff in all three districts have a history of working closely with landowners on alternative practices that include NRCS Field Office Technical Guide Practices of (at a minimum): 410 Grade Stabilization Structure; 468 Lined Waterway or Outlet; 329 Residue and Tillage Management, No-Till; 340 Cover Crop; 590 Nutrient Management. SWCD staff stated that alternative plans utilizing cover crops or no-till must be applied to the landowner's whole field (regardless of acreage), because SWCD/BWSR computer programs model a larger erosion prevention benefit for 16.5' buffers as compared to the field practices used for alternative practices. Despite asking at all four meetings, District staff received no information on how stacking cover crops with no-till practices would be modeled for soil loss.

Attorney Lukas Croaker reminded attendees that the District chose to enforce the Minn. Stat. § 103F.48 Riparian Buffer Law in order to work with landowners on Buffer Law implementation. Ultimately, non-compliance with the District's corrective action notice will be determined by a judge and could result in a misdemeanor under criminal law or a civil court order under Minn. Stat. § 103D.545.

SWCD staff notified the District and BWSR of parcels that are in potential non-compliance. The District next needs to provide landowners with a list of corrective actions needed to come into compliance and a practical timeline to meet the requirements of the District's Buffer Rule. The District expects that some landowners will pursue alternative practices to fulfill corrective actions. In an effort to support landowners' statutory right to adopt an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the NRCS Field Office Technical Guide, per Minn. Stat. § 103F.48, subd. 3(b) and Section 3.5 of the District's Riparian Protection and Water Quality Practices Rule "Buffer Rule," District staff are pursuing options to subcontract with a professional agricultural technician. The technician will work with landowners and District staff to help bring non-compliant parcels into compliance. A draft professional services contract may be available for review at the May 2024 board meeting.

**2023 ANNUAL
REPORT**

Upon motion by Beyer, seconded by Dahlen and carried unanimously, the 2023 Annual Report was approved.

**JUNE BOARD
MEETING**

Board managers supported moving the June 20, 2024 board meeting to June 21, 2024.

The meeting was adjourned.