



TITLE: REGULAR MONTHLY BOARD MEETING MINUTES

DATE: MAY 2, 2024

1. ATTENDANCE:

Chairman Stuart Christian called the May 2, 2024, meeting to order at 8:00 AM at the District Office. Other managers attending were Don Andringa, Clayton Bartz, Craig Engelstad and Shawn Brekke. Staff members present included April Swenby – Administrator and Donna Bjerk – Administrative Assistant. Others in attendance included Zach Herrmann - Houston Engineering, Dean Johnson – Landowner, and JJ Hamre - Landowner.

2. APPROVAL OF THE AGENDA:

Swenby stated there were a couple of landowners who may be attending the meeting because there are items that pertain to them as an agenda item the action items. Swenby asked the board to consider repositioning the agenda order of items and address those landowners when they are able to stop by, in an effort to be mindful of their time. A **Motion** was made by Manager Engelstad to approve the agenda as presented, offering flexibility for landowners who have agenda items listed, **Seconded** by Manager Bartz. **The Motion was carried.**

1. MINUTES:

A **Motion** was made by Manager Andringa to approve the minutes from the April 4, 2024, meeting, **Seconded** by Manager Engelstad. **The Motion was carried.**

2. FINANCIAL REPORT:

A **Motion** was made by Manager Engelstad to dispense the reading and approve the April 2024 Treasurer Report, **Seconded** by Manager Andringa. **The Motion was carried.**

The managers reviewed their expense reports and reported on activities for the month. The following bills were reviewed.

Anderson, Bottrell, Sanden & Thompson	960.00
April J. Swenby	176.53
Brandner Printing	316.76
City of Fertile	55.11
EcoLab	53.44
First Community Credit Union	315.82
Garden Valley Telephone Company	178.48
Houston Engineering	15,669.78
Otter Tail Power Company	476.13
Red River Watershed Mgmt. Board	729.00
Todd's Landscaping	55.00
West Polk Soil & Water Conservation District	3,085.92
Wild Rice Electric	183.91
TOTAL	<u>22,255.88</u>

A **Motion** was made by Manager Engelstad to approve and pay the bills to be paid with a total of \$22,255.88 **Seconded** by Manager Brekke. **The Motion was carried.**

3. ADMINISTRATOR REPORT:

SH Ditch/LRIP Township Funding: Swenby reported that there were no Polk County applications selected for funding.

Moen Erosion Control: The district was not awarded the grant for the MDM application that was submitted for the Project 17 Outlet Stabilization. Staff will continue to move forward with the existing grant for the Moen Erosion Control for "Projects and Practices". Staff will continue looking at other grant opportunities that will meet the end goal.

Project #27: The district's attorney has not responded with a renewal of Jack Doyle's easement.

The diving team performed the annual inspection of the underwater equipment for Wednesday May 1.

Bryan Boll has paid the permit fee, and the declaration that was approved last month has been brought to the recorder's office. Boll has asked for specification from Herrmann for closing the channel and replacing with a pipe. Construction is expected this year.

State Disaster Declaration 2023: Swenby has completed a lot of paperwork for the state disaster declaration funds from 2023. She was scheduled twice to meet with the state HSEM representative, but he had to postpone each time. Swenby expects to tour with him in the next couple of weeks. Swenby provided to the managers correspondence between herself and the state HSEM representative that was provided as a status report to show what is outstanding and what is completed, and what the potential costs will be.

2023 Maintenance Items Wrap up: Ditch 9 and Project 20 were seeded this past month by Berhow Sodding (both are planned to be covered using State Disaster Declaration funds from 2023).

Diorama: Swenby has provided all the information that she'd like included in on the diorama, and she has uploaded photos for the consultant to reference along with drone footage. Swenby and the consultant have met a few times to discuss details. Swenby reported that the consultant has been a great communicator to ensure that the district gets a model that can best represent the district. Swenby provided the information she has given to the consultant this far that the consultant is using to begin her draft.

Additional Information: The managers were given an update in writing to read on their own on the following: updates on the 2023 audit, one watershed one plan, cd investments, MPCA climate action grant application, MN 102 Boundary, quarterly reporting, Kittleson Lake impairment status, ditch inspections, and the FEMA 2022 damages status.

Beaver Scouting/Bear Park: The beaver trappers have been contacted to scout the jurisdictional area of the Bear Park Structure. They will scout for beavers and obstructions in the next couple of weeks.

4. ENGINEER'S REPORT

Moen Erosion Control: Herrmann will focus on obtaining permits for this project, and plans for bidding this summer.

Project Team (SH River Ecosystem Restoration): Herrmann reported that borings have been collected, and lab analysis is underway. As directed last month, an application for a MPCA Climate Action Grant will be applied for, as applications are due April 30, 2024. Planning tasks are eligible for reimbursement. A maximum grant award is \$50,000 per application, and there is \$2.3 million available. The match is 5% for populations under 20,000, and Herrmann believes the SHRWD will fall into that category. Grant activities would parallel the Project Team effort.

As directed last month, Herrmann moved forward with a Climate Action Grant Application. All planning tasks are eligible for reimbursement. There is \$2.3 million available with a maximum grant award per project of \$50,000. The match is 5% for populations under 20,000. Grant activities would be in conjunction with the Project Team effort to ensure eligibility for climate resiliency implementation grant funds in the future. On the application the district requested \$50,000 in funds. The local match shown in the application is \$10,910. This

is higher than the minimum match amount of \$2,500 (as agreed upon last month) however it was decided to show it in this way because the district will be incurring additional costs regardless via the on-going Project Team effort and felt this would reflect better on the application.

Scandia Section 24: A draft concept design was presented to the Mn Dept. of Emergency services for eligibility for funding.

Small storage site investigation: As approved last month, Herrmann has been directed to perform a high-level review of other identified sites and the previously identified sites from the Distributed Detention Study. He has been working on this and will have something to present in the near future.

Vesledahl Wetland Ditch Establishment: Swenby and Herrmann met with two landowners who attended the landowner meeting. The landowners had additional questions regarding CRP and extents of the proposed alignment. The landowner was going to speak to downstream landowners to gauge interest. Swenby and Herrmann have additional information that was requested that they are working on obtaining for the landowners. The board asked what the next steps would be. Swenby stated that the watershed has assisted landowners with a path forward to secure the drainage in that area. It is up to them if they want to move forward.

Project # 27: Herrmann will be working on specifications for Boll. Herrmann stated a dual wall HDPE, 24" pipe is planned. An inspector will be onsite to ensure that permitting regulations and installation aligns with the construction plans.

5. ACTION ITEMS.

- a) **SH Ditch Redetermination:** Swenby has been working on planning the landowner meeting to educate landowners on the redetermination process and how it may relate to them regarding the SH Ditch. After thinking about what best way would be to provide information for the landowners, Swenby asked John Kolb what it would cost for him to present at one meeting. Kolb estimated a days' time with travel, plus prep at just under \$3,000. Swenby felt it still may be of benefit to the landowners to ask Bryan Murphey to provide education to the landowners about the viewing process and how determinations are made. The presentation can be recorded and uploaded online for landowners unable to attend. The purpose of the presentation would be to educate landowners on the legal process of redetermination and to educate the landowners regarding decisions regarding the Sand Hill Ditch. Swenby suggested a survey at the end to obtain feedback from landowners. Swenby asked if the board thought this was an avenue worth pursuing.

*A **Motion** was made by Manager Brekke to offer two meetings in a single day with one in Fosston and one in Fertile, both presented by John Kolb and Bryan Murphey (if available and interested), **Seconded** by Manager Andringa. **The Motion was carried.***

It was discussed that attendance may be better received in July after seeding is completed and before harvest.

- b) **Project Team:** The draft Purpose and Need statement for the SH River Ecosystem Restoration project was presented. This document is evolving as more information from the project team is uncovered, however staff asks for board consideration and affirmation that the project team is in the right direction, and it serves as an update to the board on the project team process.

*A **Motion** was made by Manager Andringa acknowledging the purpose and need statement with affirmation that the Project Team is moving forward in the right direction, **Seconded** by Manager Engelstad. **The Motion was carried.***

- c) **Project #17:** Swenby reported that feedback from the landowners is that if maintenance is needed, they would prefer to have their taxes not increased dramatically and would like to spread the costs out over several years. Swenby stated that if this moves forward it can be bid next month with the Moen project, and the district can plan for a fall construction after harvest for both.

Herrmann will evaluate to see if data that can be used for specs can be obtained via LiDAR in lieu of boots on the ground surveying.

*A **Motion** was made by Manager Andringa to move forward with the bidding process, authorizing Herrmann to develop bidding specs for the maintenance on Project # 17, **Seconded** by Manager Brekke. **The Motion was carried.***

The board agreed that increasing taxes dramatically on Project # 17 is not the district's intent and will be mindful of that request when it is time to levy in the upcoming years. The costs incurred can be funded by the district and paid back over several years.

- d) **Building Project:** As discussed at the last meeting, Swenby asked the contractor to provide an estimate that would add an additional 10' so the district could secure the extra office (or meeting room space) and the extra bathroom. The board was being asked to either move toward this proposal which is 1408 square feet, or stick with the original proposal of 1088 square feet. The contractor would like to order supplies soon, and needs to know which plan the board would like to move forward with. With the larger size, the square foot price decreases; unfortunately, the overall price increases. The district is still on schedule to build this summer/fall. Swenby thought she'd bring this to the board as an option, for reducing the square foot price. As another note, both prices (the \$630,700 price or the \$701,100 price) includes sales tax. The district is sales tax exempt. Swenby asked the contractor for an estimate of what the sales tax savings would be, and without him asking all of his subs to rebid- he wasn't able to give her a firm answer, and it is dependent on which plan the district goes with. Removing the sales tax will substantially reduce the square foot price and the overall price of the project. The architect told Swenby materials are typically half of the price, so a good estimate would be to divide the total cost by half and multiply it by the sales tax rate for our area to estimate the projected savings.

Swenby has contacted the City of Fertile who does not anticipate issues with the permit application. She preferred to wait with building permit application until a final square foot plan can be submitted pending the board's decision today regarding the finalization of the preferred plan to ensure that property lines were adequately represented in relation to the addition. Polk County has already approved the in-drive parking as presented on the plan.

YHR Partners has presented a contract between the Sand Hill River Watershed District and Schmitz Builders was presented for \$630,000. If the board wants the bigger size, a change order will be created to reflect that amount.

*A **Motion** was made by Manager Andringa to approve and sign the contract, pending building permit approval, **Seconded** by Manager Engelstad. **The Motion was carried.***

*A **Motion** was made by Manager Andringa move forward with the proposal for 1408 square feet **Seconded** by Manager Bartz. **The Motion was carried.***

The following resolution for funding regarding capital improvements for the building project was presented to the board. A Motion was made by Manager Andringa to approve the following resolution and move its adoption by the Board:

Whereas the Board included in its budget a total of \$583,824 for capital improvements to the District's offices based on estimated costs of said improvements; and

Whereas the actual anticipated cost of the capital improvements is now known to be at least \$701,100, minus sales tax and

Whereas the District's general fund reserve account contains sufficient funds to cover the shortfall/difference between the budgeted amount for the improvements and the anticipated, actual cost of the improvements; and

Whereas the District's general fund reserve account is not restricted to any specific project or purpose, but is, rather, intended for use by the District to cover unanticipated budget shortfalls for actions or activities within the statutory authority of the District, addressed in the Watershed Management Plan or otherwise necessary to facility District operations;

Now, therefore, the Board of Managers of the Sand Hill Watershed District authorizes a transfer of up to \$117,276, plus a 10% contingency from the general fund reserve account to the District office capital improvement account to cover shortfalls in the currently budgeted

amount. Nothing in this resolution shall prevent the Board from considering additional allocations from the reserve account if necessary.

The motion was seconded by Manager Bartz.

A roll call vote was held.

	Yea	Nay	Absent	Abstain
Christian	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Andringa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brekke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bartz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Engelstad	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Motion was carried.

- e) **Public Relations Piece:** Swenby presented a public relations article that discusses the rock arch rapids, and the project team that has been implemented. Staff would like to place this in the paper, on our website and in the annual report. Manager Engelstad suggested additional language that would address the wing wall removal with relation to the structures replacing them.

*A **Motion** was made by Manager Brekke to direct staff to address additional clarification the language in the public relations article as presented and bring back to the Board next month, **Seconded** by Manager Engelstad. **The Motion was carried.***

- f) **Incremental Buffer Law:** There are some areas of ROW on Project # 17 that still need purchasing and were not included in during the origination of the project. There is a process established from when the district acquired buffer on Ditch 9 and 119. Staff would like Board consideration to move forward with this process to acquire the buffer.

*A **Motion** was made by Manager Andringa authorizing staff to move forward with the process for acquiring buffer using the Incremental Buffer Law on Project # 17, **Seconded** by Manager Engelstad. **The Motion was carried.***

- g) **Lake Monitoring:** East Polk SWCD has presented a proposal for monitoring SH Lake and Kittleson Lake. Swenby mentioned this to Herrmann to see if there is value in this. For the dollar amount, he agreed there is value in continuing it. While we may not use it directly, all of this data helps tell the overall "Story" of the District in terms of current conditions and improvements. The total SHRWD contribution is \$725 for the monitoring years 2024-2026. The monitoring will include phosphorus, chlorophyll, analysis, and clarity.

*A **Motion** was made by Manager Brekke to approve the contract for a partnership monitoring contract for SH Lake and Kittleson Lake for 2024-2026 for \$725, **Seconded** by Manager Bartz. **The Motion was carried.***

- h) **Landowner Access Agreement:** Dean Johnson is not in favor of the agreement recommended by the district's attorney (e-mail Swenby sent to Johnson was provided to the managers). Johnson did not support paying any amount of money out of his pocket for an agreement that did not provide perpetual access. Johnson is asking that the ditch system or the watershed pay for a band that would widen his access to his property if the board is not willing to grant him a perpetual easement or sell him the land. Prior to the meeting Swenby stated that she told Johnson that the legal system landowners typically do not pay for after the fact improvements or access to property on landowners' behalf, and that the practice of the district is that expenses of a wider crossing would not be the responsibility of the legal system. She stated that the board's obligation, according to her understanding, is maintaining the drainage efficiency of the project as originally designed. If the board were to pay for improvements to landowner crossings she suggested consulting the attorney to determine if the public system can legally pay for that and if so, she suggested a district wide policy to ensure that every landowner is treated fairly and consistently when requests for improved crossings come before the board. Johnson would like the board to reconsider their position. Johnson suggested a gentleman's agreement that states he can access his property via the land owned by the district, to keep things simple.

The following conditions were discussed with the district's attorney as a starting point for an agreement:

1. Limit of liability for the Sand Hill River Watershed District from any actions taken by the grantee or those the grantee authorizes access (renters, drivers, etc). This should include any property or bodily harm caused directly or indirectly through the actions of the grantee. This may require insurance for the grantee and those the grantee authorizes access to.
2. The agreement does not guarantee access over Project 3. If the district ever does an improvement or repair, the district does not want to have their hands tied due to this agreement. The district also wants the ability to build within the agreement (thinking if there is ever a ditch improvement or repair that makes the ditch wider and/or requires more space for spoil).
3. Establish responsibilities for restoring the property for any damages incurred by the grantee, at the discretion of the grantor.
4. Establish priority use of the property. The district will want something that states that we have priority access at our discretion.
5. This would not be a perpetual agreement. This would be an agreement for only as long as the Watershed owns the property or revokes the agreement.
6. Grantee pays all legal fees, est. about 2-3 hours.

The board discussed options for addressing Johnson's concerns about the perpetuity of the agreement, reviewing line item number 5 and the way this is written. Johnson stated that the watershed district could revoke this 2 days after an agreement is signed, resulting in Johnson paying 2-3 hours of an attorney's fee to draft a useless agreement.

The intent of the ability to for the district to revoke the agreement was to allow for revocation in the event that the terms of the agreement were not met.

The board discussed public funds and the responsibility to of the district to protect the liability of the district. The board appreciated the concept of keeping it simple; however with public funds the board discussed the obligation to be mindful of those funds and the liability access may propose without a written agreement.

*A **Motion** was made by Manager Andringa to continue to offer access to Johnson with the above conditions, but allow revocation only under a stipulation of a grantee agreement violation or ownership change, **Seconded** by Manager Bartz. **The Motion was carried.***

- i) **NW ¼ Section 23/Scandia- SH Ditch spoil:** Last season, the SHRWD received a complaint about modifications to the spoil pile along south side of the Sand Hill Ditch in the NW 1/4 Section 23 Scandia Township. This portion of the Sand Hill Ditch is a 103E public drainage system and the SHRWD is the ditch authority. The modifications were done several years ago (15-yrs +/-). The district has been informed that at the time of the modifications, area landowners brought it up to the SHRWD staff, however the modifications were not brought forward to the board at that time. It was alleged that the spoil was raised by prior landowners to prevent spring flood breakouts from inundating adjacent buildings. Landowners in 2023 asked the board to investigate the height of the spoil as they suspect the raised spoil now results in flood breakouts to the north, over County Road 232 on the north side of the channel. It was also reported by a landowner that the county graded the road each spring before flooding to prevent break outs to the north. Breakout flows would then flow south over the field approach in the east road ditch of County Road 14. It was reported that in the spring flood of 2023, the county did not grade County Road 232 in advance of the spring flood, thus flows broke out to the north over County Road 232.

Review of the project specifications and as-built drawings indicate that the spoil was to be placed at a maximum height not to exceed 8 feet from the existing ground at the time of construction. The spoil in its current condition does not exceed 8 feet from existing ground. Because of this the district has no authority to lower the spoil heights through use of Sand Hill Ditch funds.

To date, the SHRWD staff has been working through options for corrective action (if any) can be taken to address the issue. At the October 2023 board meeting, staff was directed to with the adjacent landowner about options. At the latest discussion Swenby and Herrmann had with the landowner on April 29, 2024, it was indicated that the road has recently been graded and raised, and it may now be at an elevation high enough to make the field approach in the east road ditch of County Road 14 and south of the channel the controlling elevation. This would mimic what has occurred in other recent floods prior to the spring of 2023.

The board has asked Herrmann to verify the current elevations of County Road 232 and the field approach in the east road ditch of County Road 14. The as-builts for County Road 232 will also be compared to the current elevations to determine if the road is currently lower than designed. Once all data has been secured, a letter will be sent to all landowners who came to the district seeking assistance and the county, stating the needed heights to avoid a breakout going forward.

A **Motion** was made by Manager Brekke to authorize the gathering of additional information to present to in preparation for a final position of the watershed district, **Seconded** by Manager Andringa. **The Motion was carried.**

6. OTHER BUSINESS

The managers received information from the International Water Institute and the Red River Basin Commission regarding their summer tour. There was no other business presented by the managers.

7. PERMITS:

There were no permits presented to the board.

8. ADJOURNMENT:

The next regular meeting will be held June 6, 2024, at 8 AM. As there was no further business to come before the board, a **Motion** was made by Manager Bartz to adjourn the meeting at 11:39 AM, **Seconded** by Manager Brekke. **The Motion was carried.**

Donna Bjerck, Administrative Assistant

Shawn Brekke, Secretary