

SAND HILL RIVER WATERSHED DISTRICT

May 4, 2010 Meeting Minutes

- 1. Attendance:** Chairman Harold Vig called the May 4, 2010 meeting to order at 8:00 AM at the District Office. Other managers present were Bill Brekke, Stuart Christian, and Roger Hanson. Daniel Wilkens-Administrator, April Swenby – Administrative Assistant, Lawrence Woodbury-Houston Engineering and Greg Ranz – Beaver Control Expert.
- 2. Approval of the Agenda:** A Motion was made by Manager Brekke to approve the agenda as presented, Seconded by Manager Christian, Carried.
- 3. Minutes:** A Motion was made by Manager Hanson to approve the minutes of the SHRWD regular board meeting conducted on April 6, 2010, Seconded by Manager Brekke, Carried.
- 4. Treasurer's Report:** A Motion was made by Manager Brekke to approve the treasurer's report for April, Seconded by Manager Hanson, Carried.

A Motion was made by Manager Christian to approve and pay bills Seconded by Manager Brekke, Carried. For further reference, copies of the bills approved are attached hereto in the Treasurer's Report.

Engineer's Report

City of Fosston Permit (Ditch # 55): Woodbury reviewed the permit application by the City of Fosston. This application was supported by a Hydrology Report, Plans, and a letter from Widseth, Smith and Nolting (WSN). Reading from sections of the WSN Hydrology Report, Woodbury stated that the area comprising the proposed industrial park currently has 48.7 acres of pervious acreage and the proposed permit would make 50% of the area impervious when the industrial park is completed. In other words, there will be a significant increase in total runoff volume and rate of runoff, which is to be expected for projects of this nature. There will also be a significant increase in the rate of discharge due to adding a 24" pipe to the original 12" currently under the road and railroad. The WSN Hydrology Report indicates the rate of runoff at several different rain events is increased by as much as four fold. This analysis suggests that the downstream landowners could have some adverse downstream effects. The value of an improvement project keeps all landowners well informed of the effects of the proposed projects and can correct problems that arise.

Vig explained the position of the City of Fosston and that the cost factor is their largest concern. This is why they went the abandonment route which takes this area out of the improvement process. Creating an improvement project Vig felt would raise the costs and could possibly render the proposed project unfeasible. Vig expressed his opinion that the permit should not be denied and feels that the question of enlarging the pipe size is a technicality. Wilkens explained the district's past position for projects such as these. The Advisory Committee discussed this issue and their comments were to follow the state statutes as currently in place. Vig questioned why we permit culverts in other areas and question this one. The improvement process comes into effect due to the fact that this a legal ditch system.

Wilkens presented the ditch law pertaining to this question sent to us by our attorney, Dave Hauff, on April 30, 2010 for board review.

103E.805 REMOVAL OF PROPERTY FROM AND PARTIAL ABANDONMENT OF A DRAINAGE SYSTEM.

Subdivision 1. **Petition.** After the construction of a drainage system, the owner of benefited property may petition the drainage authority to remove property from the drainage system or abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system if:

- (1) waters are diverted from property assessed for benefits so that the drainage from the property does not use or affect the drainage system; or
- (2) a dam authorized by law is constructed in the drainage system so that the property above the dam cannot use or receive benefits from the drainage system.

103E.215 IMPROVEMENT OF DRAINAGE SYSTEM.

Subdivision 1. **Procedure.** The procedure in this section must be used to improve an established and constructed drainage system.

Subd. 2. **Definition.** In this section "improvement" means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to reline or replace tile and construction of tile to replace a ditch.

Attorney Generals Opinion dated September 7, 1967, to Honorable Robert H. Bredt, Martin County Attorney.

Excerpt: "Upon hearing, if it appears that waters from land and properties of petitioners have been diverted from the drainage system and that such lands and properties are no longer benefited thereby and no longer utilize or affect the drainage system, and further, that setting such lands and properties off from the drainage system will not prejudice the owners of lands and properties remaining in the system, the board or court shall so find and shall by order direct that the lands and properties of petitioners be set off from the drainage system. Webster's Third New International Dictionary defines utilize: to make useful-turn to profitable account or use-convert to use. Said dictionary defines the word affect: to act upon. Black's law dictionary defines the word affect: to set upon-influence-change-enlarge-or abridge. You are advised that if the County Board of Commissioners finds from the facts presented to them that lands or properties of petitioners is still receiving benefits from said ditch system, said petition should be denied as to such lands or properties by order of the County board of Commissioners."

Manager Brekke felt that after reading the statutes and Attorney General's opinion that there are questions about the legality of the abandonment. Putting in a larger tile is enlarging the size, which in the statute states that it needs to be an improvement project based on the definition in ditch law. Brekke, Hanson, and Christian did not feel it would be legal for our board to approve the permit. Vig suggested holding a meeting with the County engineer and some of the other key people to try to work through this and explain the position of the watershed. Vig suggested issuing a letter to the City of Fosston indicating that the permit in question has been tabled pending additional information. The letter should state that the district welcomes the opportunity to explain the districts position, permitting process and ditch law. It should suggest meeting with the county, their attorney, and the City of Fosston. Wilkens was instructed to try and set up this meeting as soon as possible.

Project # 24: Jeff Langen finalized his report and cost estimates were given to the managers. Woodbury suggested a hearing in the third week of June, allowing sufficient time (three consecutive weeks) for a public notice. The district will send out a notice to the landowners and place a notice in the local papers. Advertising should begin the first week in June for The Fertile Journal and the Crookston Times. The preliminary hearing was set for June 17, 2010 at 10 a.m. at the Legion Hall in Nielsville to present the preliminary engineers report to the landowners. Brekke will contact the Legion about the availability of the Legion Hall. Swenby will remind him around the 15th of June to confirm this reservation. Brekke will discuss with the Nielsville city council the

different funding options for the project within the city. Swenby will e-mail Bill prior to the June 7th to remind him of this task.

SH Restoration Project: Woodbury's team will present a revised restoration plan to EPA as per their request.

TMDL: TMDL study for the Sand Hill River Watershed will be reimbursed to the district from MPCA for \$150,000 for the first year and \$100,000 for the second year. This will begin July 1, 2010.

5. Dan's Monthly Report

Project Team: Woodbury is coordinating with Brian Dwight and Steve Clark to develop a purpose and need statement that will satisfy the Corp of Engineers.

RRWMB: The RRWMB met in Thief River Falls. Meeting highlights were distributed to the managers.

RRBC Commission: The RRBC will be meeting on May 6 in the convention center in Morris MB.

LID: The pump screen is in place. The LID is waiting for heavy equipment to arrive after road restrictions so it can be lowered to the lake bottom.

Ring Dikes: Bid opening is schedule for May 11 at Houston Engineering. Houston Engineering has met with Climax to gather input.

Project # 20: The district is waiting to do the final earth work so seeding can be accomplished.

Fish Passage: USACOE is working on a preliminary report about the possibility of funding from their organization for fish passage.

Advisory Committee Meeting: The Advisory Committee held a meeting on April 21 and recommended Scott Balstad to fill the remaining term of Gordon Sonstelie. The County Board will be making the appointment at the May 18th meeting.

Boundary: Red Lake Watershed District would like to utilize Loren Sanderson to work with Houston Engineering to develop the boundary line. Each district has agreed to pay for their firm.

Bank Stabilization/Reitmeier: Wilkens gave Shawnn Balstad information on AWEP which should have funds for the cultural resource discussed at the April meeting.

Traps on Culverts: Traps were never installed on RLWD project # 119. Scott Tollefson reported overland flooding and erosion in section 8 of Hammond Twp. Section 7 allows water to flow south into project # 12 without culvert traps in the north end of section 7 of Hammond Twp.

Ring Dikes: Jerry Bentz gave a presentation to the City of Climax.

MAWD Summer Tour: Chairman Vig and Hanson will attend and have already made their room reservations. Swenby will register the two.

6. Other Business:

Public Relations: The managers reviewed possible public relations items. No new information was brought before the board.

Vacation: Wilkens will be on vacation beginning May 31 through June 11.

Beaver Trapping: Greg Ranz presented a report for the area beaver control.

Culvert on Sand Hill: Manager Hanson asked what was required to place a culvert in the old Sand Hill river bed. Because it is protected waters, Hanson should contact Garry Bennett, Minnesota DNR Hydrologist.

7. **Permits:** One new permit was brought before the board. A **Motion** was made was made by Manager Brekke to table the following permit as per the discussion held in Woodbury's report, **Seconded** by Manager Christian, **Carried**.

2010 – 06: City of Fosston – increase pipe size (TABLED)

8. **Adjournment:** The next regular meeting of the SHRWD will be at 8 AM on June 1, 2010. As there was no further business to come before the board, a **Motion** was made by Manager Brekke to adjourn the meeting at 10:36 AM, **Seconded** by Manager Christian, **Carried**.

Bill Brekke, Acting Secretary

April Swenby, Administrative Assistant