



**TITLE:** REGULAR MONTHLY BOARD MEETING MINUTES

**DATE:** JUNE 2, 2022

## 1. ATTENDANCE:

Chairman Stuart Christian called the June 2, 2022 meeting to order at 8:00 AM at the District Office. Other managers attending were Clayton Bartz, Don Andringa, and Craig Engelstad. Managers absent include JJ Hamre. Staff members present included April Swenby – Administrator and Donna Bjerk – Administrative Assistant. Others in attendance included Zach Herrmann, District Engineer of Houston Engineering.

## 2. APPROVAL OF THE AGENDA:

A **Motion** was made by Manager Engelstad to approve the agenda as presented, **Seconded** by Manager Bartz. **The Motion was carried.**

## 3. MINUTES:

A **Motion** was made by Manager Bartz to approve the minutes from the May 5, 2022, **Seconded** by Manager Engelstad. **The Motion was carried.**

## 4. FINANCIAL REPORT:

A **Motion** was made by Manager Andringa to dispense the reading of the Treasurer's Report and approve the Treasurer's Report for May, **Seconded** by Manager Engelstad. **The Motion was carried.**

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

Anders Valley Publishing	146.25
April J. Swenby	176.67
Carrie Prudhomme	11,000.00
EcoLab	53.57
Fertile Hardware Hank	34.46
First Community Credit Union	695.94
Garden Valley Telephone Company	377.69
Garfield Township	130.00
HN Quality Plumbing	115.00
Houston Engineering	9,285.05
JC & J Trucking, Inc.	1,500.00
Otter Tail Power Company	399.88
Polk County Taxpayer Service Center	92.00
Sarah Wise	48.00
Wild Rice Electric	137.23
<b>TOTAL</b>	<b><u>24,191.74</u></b>

A **Motion** was made by Manager Engelstad to approve and pay the bills with a total of \$24,191.74, **Seconded** by Manager Andringa. **The Motion was carried.**

## 5. ADMINISTRATOR REPORT:

**Equipment:** A new monitor was purchased this month, as one in use was smoking and needed to be replaced.

**Project # 24 dam:** There is a dam at the outlet of Project # 24 that the district maintains as a part of the project. The landowner called the district to report that it had been impaired during high water and there was a breach. The landowner requested that this be repaired as soon as possible. A long reach backhoe was necessary, and Roger Hennen was hired. Swenby asked Houston Engineering to facilitate the repair, as it is DNR regulated, and Swenby wanted to ensure that proper material, fabric and rock were placed according to the design. This structure has a history of impairment.

**Sand Hill Water Quality/Liberty Township:** Swenby presented On May 23, 2022, to FEMA and the State of Minnesota the reported damages in the district. The drone footage was helpful.

**Ditch 9 Overflow:** Swenby provided proposed language responding to the landowner's concerns about the overflow of ditch 9, and the possibility of a gated structure, the managers desire to explore to other options due to financial feasibility. The managers would like to continue the discussion for problem solving in the area and agreed to send the letter as proposed to update the landowner and address his concerns.

**Union Lake Pumping:** The LID has requested pumping and throughout the month. Swenby has been monitoring the gage levels at Climax. On May 23, 2022, the gage level reached 9. She has been working the LID and the MnDNR to begin the process for pumping. On May 25, 2022, the district gave permission for the LID to begin pumping. She and Chairman Christian inspected the drainage way, and she provided a written report with images. The LID began pumping the evening of May 31, 2022.

**Beaver Program:** Several townships have responded and signed new beaver bounty agreements.

**Strategic Planning:** The final Strategic Planning session is scheduled for June 16 at 8 AM.

**Jerde/Taylor Erosion Control – Project # 30:** The West Polk SWCD is looking for records of signed agreements. Swenby has informed the WPSWCD of the district's recommendation to implement easements if there are not signed documents for this area.

**Vesledahl Wetland Banking:** MnDOT has forwarded a draft of their proposed agreement. The agreement places the watershed district financially responsible for all maintenance of the main ditch. The proposal does not address contributing ditches within the wetland. The district attorney is reviewing the contract, to determine legalities for bypassing drainage law or establishing an assessed area using watershed law. In the meantime, Swenby has made a written request that MnDOT clean the main ditch this summer, as it has been many years since the ditch has ever been cleaned. MnDOT has responded with the following: "MnDOT will not clean out the main ditch. The current permit process and ultimately the agreement will allow landowners to access the site to conduct cleaning of the main ditch. We do not clean our highway ditches to accommodate better drainage for adjacent landowners either. If landowners want to clean ditches to facilitate better drainage for their property, we will issue a permit and they can do the work. Our permits staff issue numerous permits to landowners for this purpose each year."

**Gene Brekke request for parcel removal:** We reviewed the parcels in questions and the conclusions are as follows:

- Parcel # 390022000 in Section 33: Our minutes from the final hearing note it was the landowner's request to keep that 40 acres in the assessed area.
- Parcel # 390022700 in Section 34 and Parcel # 390022900 in Section 35: These parcels are adjacent to the ditch channel and LiDAR confirms these parcels naturally drain to the north, directly into the channel.
- Parcel # 39002300 and Parcel # 390022800 in the South half of Section 35: LiDAR confirms these parcels naturally drain to the north, into the channel.

Swenby provided a proposed letter responding to Brekke's inquiry about Section 33, 34 and 35 of Hubbard Township in relationship to Project #24 that the district attorney has approved.

Swenby has also sought district attorney advice for the costs associated with such requests. There is no statute which authorizes the imposition of any fee for conducting the hearing. The attorney added that there is an Attorney General's opinion that the costs (notice and hearing) associated with a petition for removal (under a previous, identical statute to 103E.805) are to be paid out of the ditch fund. The attorney did not see anything in our current rules that would require payment by the petitioner. He did add, that when the district has a hearing, the petitioner has the responsibility of showing that the requirements of the statute have been met.

**Culverts relating to ditch systems:** When there are culvert wash outs or side inlet washouts on our legal systems, Swenby was looking for consistent direction for whose responsibility it is to financially replace/repair. Historically as a general rule, if there is a side inlet that has eroded, the district (assessed area) has paid for the maintenance. Most of our systems are recent and have defined side inlets that were added as a part of the project. Swenby presented two examples that she felt were questionable for watershed responsibility:

1. In Section 20 of Hubbard Twp. In the NW quarter, there is a culvert washout. Ditch plans say that the culver pre-dates the system, and when the system was built, the culvert was left as is and wasn't replaced new, likely because a new one wasn't needed. This is in the township road ROW.
2. Along the SH Ditch, in the SW quarter of Section 23, a culvert that is under the road but outlets directly into the Sand Hill Ditch has blown and needs repair. It is currently a 15" corroded pipe that is plugged full of corn stalks. This particular pipe also has a relief that goes under the county (N/W) road (18"). The County is not taking responsibility for this, as this culvert is not said to be necessary for their road crossing. This pipe comes from the south, goes under the township road alongside a county road and enters the Sand Hill Ditch.

When pertaining to example 1, the managers agreed this would be the assessed areas responsibility.

When pertaining to example 2, the managers reviewed Mn Statute 103E.525 which highlights the road authority's responsibility. The managers agreed that side inlets/culverts under township roads out letting into legal drains are the road authority's responsibility. Side inlets that are not underneath a public road, would be the ditch authority's responsibility. The watershed would only consider contribution if the culvert/side inlet exceeded the road authority's ROW.

## 6. ENGINEER'S REPORT

**Project #24:** Images were provided of the clay plug installed at the outlet of Project # 24. Clay, fabric, and rock was installed.

**Liberty Township Erosion Repair:** MnDNR permits are pending. Because estimated construction costs are greater than \$25,000, quotes will be solicited.

### **Project Team:**

**Kittleson Creek Storage:** Herrmann is working with NRSC to develop funding opportunities.

**Liberty/Reis Erosion Repair:** For the larger fix on the SH Ditch, Herrmann stated his goal is to have a conceptual design and cost estimate with the project team cooperation by the end of 2022.

**Incremental Buffer Law:** Herrmann is working with Swenby to get her the information she needs to disburse payment.

**Project # 27:** Herrmann's team reviewed the divers video footage. His team is looking at options to address the saddle repairs, noted on the diver's report. Herrmann will begin revisiting the solutions near Rick Johnson's property where the sand bags are holding water and diverting it to the drainage path.

**Moen Erosion Control:** Herrmann would like to monitor the water levels before he sends a survey crew.

**MN 102 Boundary Revisions:** Herrmann, Manager Engelstad and Swenby met to review the boundary and some of Manager Engelstad's observations from the spring flooding. Herrmann presented a map highlighting the spring observations which include discovery of an additional culvert through the old rail siding embankment south of the recreational trail in Section 22 and evidence of breakouts in Section 27. As a result, Herrmann suggested a revised plan that includes raising the railroad grade near Polk County 41 (west) to prevent overflows into the adjacent yard, installing a ditch plug northeast of the warming house between the recreational trail and the old rail siding, and installing a culvert through the ditch plug in the south road ditch of MN 102.

Herrmann will update the hydraulic modeling results to incorporate the proposed modifications and provide technical memo to MnDOT and Polk County.

**Polk County 44 Culvert Inventory:** Herrmann plans to begin that this month.

## 7. ACTION ITEMS.

**One Watershed One Plan:** A **Motion** was made by Manager Andringa to sign and execute the grant agreement as presented, moving forward with the SHR 1W1P, **Seconded** by Manager Engelstad. **The Motion was carried.**

**Onstad/Liberty Township Drainage:** Manager Engelstad has requested an engineer tour of Onstad/Liberty Township/Maple Creek water issues. Manager Engelstad stated that there are many culverts that have contradictory culvert sizes upstream of the downstream culverts that are causing havoc on the roads. He did not anticipate it to take very long suggesting an hour or two.

Currently the townships have not applied for a permit for culvert sizing in this area that requires an engineering site visit. Typically, our current process requires the applicant to submit the upstream and downstream culvert sizes. Typically, during the permitting process, it is rare for the district engineer to need a tour for evaluation, but sometimes it is warranted for him to make his recommendation, depending on the circumstance.

Swenby stated that if engineering services are utilized outside of the permitting process, she would like to keep consistency for services offered. She is not opposed to the district offering such services and analysis, if the board would like to move in that direction, but she suggested that if engineering tours are paid for by the watershed without permit applications, it should be offered to all townships/landowners. To pay for such services, the district would need to earmark the engineers time using the allocated petitions, as there is no assessed area.

The managers agreed to keep our engineering staff limited within the permitting process that has been established. If an on-site inspection is warranted by an engineer at the time of a permit application, staff is able to make that determination.

## 8. OTHER BUSINESS

The managers received information from the FDRWG.

## 9. PERMITS:

Manager Engelstad exited the meeting. Several Permits were brought before the board.

- Permit 22-028: Eric Engelstad, Liberty Township, Section 11, install a culvert

This permit requests to install a culvert through 415<sup>th</sup> Street, just west of 140<sup>th</sup> Avenue to utilize the north road ditch of 415<sup>th</sup> Street. Further west near Kittleson Creek, a driveway crosses the south road ditch of 415<sup>th</sup> Street that experiences damages during high flows. The proposal in the permit would utilize the north road ditch to minimize future damages to the driveway. Both the applicant and Liberty Township have notified us that the landowner on the north side of the 415<sup>th</sup> Street is apprehensive of the project, although we have not substantiated this directly with the north landowner. **At this time, we recommend tabling** the application until more information is received. The SHRWD will perform a technical investigation to verify that the north road ditch can handle any added flows from the proposal or define the anticipate adverse effect of the proposal.

Before a permit could be issued, written acceptance from the landowner north of 415<sup>th</sup> Street and/or Liberty Township could, be required, depending on the extent of damages.

- Permit 22-029: Garfield Township, Garfield Township, Section 8, Construct new ditch/install culvert

Contingencies: remove only accumulated sediment, the 15" culvert must be set to elevation equal to the cleanout, and no deepening or widening of the township road.

- Permit 22-030: Phillip Lee (Polar Beach Snowmobile Club), Sletten Twp. Section 6, Install culvert and crossing.

Recommend approval with the board approved contingency on county attorney confirmation that proposed work is defined as a repair as per MN Stat. 103E.701, subd. 1.

- Permit 22-031: Paul Engelstad, Reis Twp, Sections 25 and 26, Install Tile

- Permit 22:032: Colleen Tupper, Reis Twp., Section 25 and 26, Install Tile

Permit 22-031 and permit 22-032 are requests to tile drain into the SH Ditch. The applicants are within the Benefitted Area of the Sand Hill Ditch; however the topography indicates that the land currently drains south. We've located what appears to be the correct viewers report, which confirms that the land is in the benefitted area. However, the report does not indicate how benefits are assigned, so we have no indication if its drainage, flood protection, or otherwise. We have sought legal advice for this application. (see the attached attorney language and case law examples). After reviewing case law (attached) he believes that landowners who are assessed benefits are already in the system and, therefore, they don't need use the outlet or lateral statutes to drain into the system. **At this time, we recommend tabling.**

A **Motion** was made by Manager Andringa to table permit 22-28 until further information is gathered, **Seconded** by Manager Bartz. **The Motion was carried.**

A **Motion** was made by Manager Andringa to table permits 22-31 and 22-32 until a capacity report is completed by the district and authorized Herrmann to perform the report, **Seconded** by Manager Bartz. **The Motion was carried**

A **Motion** was made by Manager Bartz to approve permits 22-029 and 22-030 with the above listed contingencies, **Seconded** by Manager Andringa. **The Motion was carried.**

## 10. ADJOURNMENT:

The next regular meeting will be held Thursday, July 7, 2022, 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 11:00 AM, **Seconded** by Manager Andringa. **The Motion was carried.**

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Donna Bjerk, Administrative Assistant

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JJ Hamre, Secretary