



**TITLE:** REGULAR MONTHLY BOARD MEETING MINUTES

**DATE:** MAY 5, 2022

## 1. ATTENDANCE:

Chairman Stuart Christian called the May 5, 2022 meeting to order at 8:00 AM at the District Office. Other managers attending were Clayton Bartz, Don Andringa, Craig Engelstad, and JJ Hamre. Staff members present included April Swenby – Administrator and Donna Bjerk – Administrative Assistant. Others in attendance included Milt Yergens, Architect, and Austin Jones, Onstad Township Official.

Those in attendance during the hearing included Phillip Hamre and Gene Brekke.

## 2. APPROVAL OF THE AGENDA:

A **Motion** was made by Manager Hamre to approve the agenda as presented, adding a discussion from Milt Yergens, **Seconded** by Manager Bartz. **The Motion was carried.**

## 3. MINUTES:

A **Motion** was made by Manager Engelstad to approve the minutes from the April 7, 2022, **Seconded** by Manager Bartz. **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 April, **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 (City of Fertile was an addition to the bills to be paid report):

<b>Anders Valley Publishing</b>	182.00
<b>Anderson, Bottrell, Sanden &amp; Thompson</b>	1,110.00
<b>April J. Swenby</b>	31.59
<b>City of Fertile</b>	52.08
<b>EcoLab</b>	53.57
<b>First Community Credit Union</b>	759.06
<b>Garden Valley Telephone Company</b>	238.97
<b>Houston Engineering</b>	13,610.50
<b>Otter Tail Power Company</b>	440.64
<b>Polk County Auditor - Treasurer</b>	2,160.00
<b>Sarah Wise</b>	48.00
<b>TOTAL</b>	<b><u>18,686.41</u></b>

A **Motion** was made by Manager Engelstad to approve and pay the bills with a total of \$18,686.41 **Seconded** by Manager Hamre. **The Motion was carried.**

## 5. MILT YERGENS - ARCHITECT:

Swenby and Milt Yergens have been meeting determine the best route forward for soliciting bids, and meeting statutory requirements. He indicated he'd like to revise the specifications to make the plans and specs less intimidating for local builders. He gave a brief overview of the plans and specs and some of the alternative language. He itemized how the bidding process should look. Swenby is able to verify with our district attorney to ensure compliance for the bidding process if needed.

## 6. ADMINISTRATOR REPORT:

**Vesledahl Wetland:** After meeting with the attorney, it was decided that he will review the proposal from MnDOT and at this time of review he will discern if MN Statue 605 will be a good fit to establish a project.

**Outlet fees:** The district attorney felt it is an appropriate claim for Project #17 to pay an outlet fee to Ditch 9, however that would have to have been done at the time of establishment. The district attorney recommends Redetermination and Consolidation. The board needs to discern and consider the options of improvements for additional outlets and the likelihood of that vs. a redetermination and consolidation. Swenby suggested that the board also consider that affordable viewing costs are available at this time. Swenby stated that the landowners should be a part of this discussion and it is important to get a good feel for what the landowners in the area would like to see.

**1W1P:** Swenby reminded the managers that she sent out an update via e-mail highlighting the district's roles in the plan. She summarized by stating that the policy committee met, in which Don Andringa will chair. Swenby created a One Watershed One Plan portal, hosted on our web-site to ensure public information is provided. The district and the planning partners are now awaiting grant agreements from BWSR to move forward with the planning stages.

The managers want to preserve the local authority.

**Manager Orientation:** Manager Andringa and Swenby both attended new manager training this winter. It was so well received, that another one is being offered on May 19 in Detroit Lakes from 1-4. Swenby encouraged all managers who have not attended to try to attend this and to let her know for registration.

**Sand Hill Water Quality/Liberty Township:** Along the Sand Hill Ditch, there have been numerous areas that have noticed changes during the high water this spring. To ensure that everything has been recorded, Houston Engineering was asked to take additional drone footage from the same vantage point as the prior years footage to run a side by side comparison for the Project Team. This footage will also be given to the Corp to address any design inadequacies from when the dams were removed. Contact has been made with the Corp of Engineers regarding earmarked areas along this stretch.

Swenby has also contacted Polk County Emergency Management to submit our damaged locations for emergency declaration funds. Swenby will submit damage assessments and work through process to submit for sites on the Sand Hill Ditch that has been affected. It is the county's hope that FEMA will step in as well as state funds. If FEMA does step in to help, they will ask for mitigated fixes of the area and place the area back to pre-disaster conditions, which might mean purchasing more right of way.

**SH Ditch:** The Corp of Engineers have not been successful at finding a viewer's report. When Swenby submitted her request, they asked "what is a viewer's report". Herrmann was able to find some documents that have assisted him with parcels that are assessed, but there is not evidence or documentation to align which parcels pay benefits vs. protection or even if a distinction was made.

**Union Lake/ Prudhomme Easement:** Easements are signed and notarized and will be recorded this month.

**Bear Park:** Swenby toured the structure and recorded images on Saturday, April 23, 2022. At that time, the structure was doing its job and water hadn't exceed the top of the structure. On Sunday, April 24, 2022, Swenby received word from a local landowner that water was over topping the emergency spillway, slightly. Chairman Christian also made a dour on April 28, 2022 and presented photos to the board of water to the North of the structure.

**Beaver Program:** All townships were notified this month of the new beaver bounty allocation and were asked to sign new agreements. To date, two townships have responded and signed new beaver bounty agreements.

**Strategic Planning:** The managers set a date of June 16 at 8 AM for the final strategic planning meeting.

**LiDAR:** An update on LiDAR is provided to the managers.

**Verdell Olson Dam:** Troy Olson reported that the culvert is plugged and is backing up water. Swenby reviewed district records, and there are no easements or no maintenance contracts. Swenby talked to Dan Wilkens and he said that in the past there has been a time or two that the watershed district has paid for maintenance to ensure that the project functions as designed. This was one of the districts earlier projects, and this project was funded by the RRWMB. It was intended for as a flood control project and at the time, was intended to be maintained using construction fund dollars. A **Motion** was made to make a one-time obligation to financially assist and clean the plugging, and ask Swenby to work with Olson's, the watershed and the Township to move forward with an Operations and Maintenance agreement for future maintenance or easements, **Seconded** by Manager Andringa. **The Motion is carried.**

**Jerde/Taylor Erosion Control – Project # 30:** It has been Swenby's "to do" list to look into securing easements for this area. Swenby spoke with Dan Wilkens about this area to get a little history. Wilkens told Swenby that at the time this was done, the district did not secure easements to ensure that what was done couldn't be filled back in again, likely due to CRP agreements that were in place. Swenby stated that Wilkens said the intent was to do an easement where the landowner would be paid some for the land, and would secure that what was placed couldn't be tilled again, or removed. Maintenance would be the landowners responsibility, not the watershed. Wilkens explained to Swenby, that this project was important and protected the township road and protected landowners on the receiving end.

Swenby found a contract between the state and the landowner, stating that the life expectancy of the project and the landowners obligations were limited to ten years, and the project is now almost 20 years old. Swenby presented an Operations and Maintenance agreement that had been drafted at the origination of the project and it was between the SWCD and the landowner (not the watershed), but it was not signed. She said she did reach out to the SWCD to see if they had agreements already in place with this landowner, because she did not want to step on another agencies toes, if this is their jurisdictional project. She had not yet received a response by the time of the meeting.

Swenby was looking for feedback and easement term preferences before she dug into this any further. This project was compared to the sediment basin program that the district financially contributes to. The district currently does not require easements or take responsibility for those projects. The managers agreed that this is an SWCD project and should be handled the same way we handle our current sediment basin program. Swenby will encourage the SWCD to obtain legal documents for this project and continue to reach out them for verification of signed agreements.

**Tile Drainage:** A landowner called to ask about our process for asking people to stop their tile pumps during times of flooding. Swenby offered that the district could send out a letter to everyone in our district who has applied for a tile permit and remind them to shut their pumps, if applicable to reduce flooding on the Sand Hill and on the Red River of the North. Chairman Christian reminded the board that our new rules, began in 2019, which regulates tile, whereas prior to 2019, permits for tiling were not regulated to that extent. The board agreed that prior tile applications would be grandfathered in without regulation at this time.

Our current rules state that it is the operator's responsibility to monitor the National Weather Service Flood Probability for the Red River and ensure that flows are closed when the NWS prediction reaches moderate flood stage. The managers asked Swenby to place a notice on the district web-site reminding people who have applied for a permit after 2019, of their permit obligations.

**Attorney Discussions:** During a meeting with the district attorney, several things were discussed and needed clarification. Swenby wanted to share with the board what she learned to maintain consistency and they are as follows:

1. Permit Applications. Our current rules and regulations state that the landowner MUST be the applicant for our permits and that the landowner must be the signature holder of the permit. He clarified that Townships are responsible for structures underneath public roads, and thus are acceptable as applicants. Furthermore, it isn't a best practice to require a landowner to take on the responsibility of the work listed

on a permit, that the township is performing. It is always is best practice to obtain landowner permissions, or vice versa, township/road authority permissions.

2. Noxious Weeds: A while back, Swenby was asked at a public meeting who the responsible party was for noxious weeds in our legal ditch systems. At the time it was explained that typically the landowners have taken care of it, but there have been times where the district has paid L & M to do the spraying for weeds in the buffer. Swenby clarified with the attorney statutory responsibility for this, and he confirmed that it is not the drainage authority's financial obligation to spray for noxious weeds. The drainage authorities only responsibility is drainage, and landowners still maintain ownership, making spraying their responsibility. This is statute.

## 7. PHILLIP HAMRE PETITION – 10 AM HEARING.

A **Motion** was made by Manager Bartz to recess the regular meeting at 10:00 AM and open the hearing on the petition received from Phillip Hamre to remove his parcels from the assessed area in Project # 24, **Seconded** by Manager Engelstad. **The Motion was carried.**

The floor was opened up for comments and the comments were as follows:

1. Gene Brekke did not have anything against Hamre's property being removed. He commented that he would like to have his parcels removed from the project.
2. Phillip Hamre asked why this wasn't addressed at the initiation of the project. Swenby confirmed that the minutes show that Hamre was at the preliminary hearing, but not at the final hearing, where this would have been addressed.

A **Motion** was made by Manager Andringa to adjourn the budget hearing at 10:11 AM and reconvene the regular meeting at 10:11 AM, **Seconded** by Manager Engelstad. **The Motion was carried**

## 8. ACTION ITEMS.

**Phillip Hamre Petition: Project # 24:** Sitting as the drainage authority for Sand Hill River Watershed District Project No. 24, having received a Petition for Removal of Property from a Drainage System pursuant to Minnesota Statutes section 103E.805 ("**Removal Petition**") by Phillip D. Hamre, having noticed and conducted a hearing on the Removal Petition, based on the record and proceedings, **moved by Manager Engelstad seconded by Manager Andringa** to adopt the following Findings and Order:

### FINDINGS

1. A petition was received from Phillip D. Hamre, owner of benefited property on the Sand Hill River Watershed District Project No. 24, requesting to remove the following property from the drainage system:

Property Description	Property Owner
1. The Southwest Quarter of the Southwest Quarter (SW ¼ SW ¼) of Section Thirty-six (36), Township One hundred Forty-seven (147) North, Range Forty-eight (48) West of the Firth Principal Meridian, containing 40 acres, more or less. (Parcel ID 39.00234.00)	Phillip D. Hamre Irrevocable Land Trust
2. The West Half of the Southeast Quarter (W ½ SE ¼), the North Half of the Southwest Quarter (N ½ SW ¼), the Southeast Quarter of the Southwest Quarter (SE ¼ SW ¼) of Section Thirty-six (36), Township One hundred Forty-seven (147) North, Range Forty-eight (48) West of the Firth Principal Meridian, containing 200 acres, more or less. (Parcel ID 39.00234.00)	Phillip D. Hamre Irrevocable Land Trust

2. Of the 240-acres included in the Petition, 120-acres are prescribed benefits in the Sand Hill River Watershed District Project 24 Viewers Report based on the tracts listed below:
  - a. 40-acres: NW ¼ of the SE ¼ of Section 36, Hubbard Township (T147N, R48W)

- b. 40-acres: NE ¼ of the SW ¼ of Section 36, Hubbard Township (T147N, R48W)
  - c. 40-acres: NW ¼ of the SW ¼ of Section 36, Hubbard Township (T147N, R48W)
3. A map of the portion of the Phillip D. Hamre's properties petitioned for removal is on record at the Sand Hill River Watershed District office.
  4. The Removal Petition is in proper form and is legally sufficient and adequate for purposes of these proceedings.
  5. A public hearing was noticed on the Removal Petition in the manner required by law and held on - Thursday, May 5, 2022, at 10:00 a.m.
  6. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
    - a. Gene Brekke did not have anything against Hamre's property being removed. He commented that he would like to have his parcels removed from the project.
    - b. Phillip Hamre asked why this wasn't addressed at the initiation of the project. Swenby confirmed that the minutes show that Hamre was at the preliminary hearing, but not at the final hearing, where this would have been addressed.
  7. The evidence presented by Phillip D. Hamre and confirmed by staff is that drainage from the above parcels lay outside of the drainage area of Sand Hill River Watershed District Project No. 24 based on review of high-resolution LiDAR data.
  8. The Board finds that the waters from Petitioner's property cannot significantly or regularly use the drainage system and that the property is not benefited by the drainage system.
  9. The Board further finds that removing the portions of Phillip D. Hamre's properties requested for removal from the benefited area of the drainage system will not prejudice the property owners and property remaining in the system. Property remaining within the benefitted area will still attain benefits prescribed during the establishment of Sand Hill River Watershed District Project No. 24.

### **ORDER**

Based on the foregoing Findings, the Board, acting as the drainage authority for Sand Hill River Watershed District Project No. 24, Orders as follows:

1. That the following properties be removed from the benefits roll of Sand Hill River Watershed District Project No. 24 effective for all costs incurred by the drainage system after the date of this order:
  - a. 40-acres: NW ¼ of the SE ¼ of Section 36, Hubbard Township (T147N, R48W)
  - b. 40-acres: NE ¼ of the SW ¼ of Section 36, Hubbard Township (T147N, R48W)
  - c. 40-acres: NW ¼ of the SW ¼ of Section 36, Hubbard Township (T147N, R48W)
2. That the property not be affected by the drainage system at any later proceeding for the repair or improvement of the drainage system and a drainage lien or assessment for repairs or improvements may not be made against the property on or after this date of this order.
3. That drainage from the property may be returned to the system only upon petition pursuant to statutes section 103E.401 or after future drainage proceeding determining that the property is benefited by Sand Hill River Watershed District Project No. 24.
4. That this order does not release the property from any current assessments for the drainage system, from any drainage lien filed on account of the drainage system before the date of this order or from any assessment or a drainage lien filed on or after the date of this order for costs incurred on account of the drainage system before the date of this order.
5. That its staff ensure that the benefits roll for Sand Hill River Watershed District Project No. 24 is updated in accordance with this order and that its staff conduct the necessary coordination with the Polk County Auditor to update the benefits roll for Sand Hill River Watershed District Project No. 24.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 4 yeas, \_\_\_\_\_ nays, \_\_\_\_\_ absent, and 1 abstentions as follows:

	Yea	Nay	Absent	Abstain
Christian	▲	□	□	□
Andringa	▲	□	□	□
Hamre	□	□	□	▲
Bartz	▲	□	□	□
Engelstad	▲	□	□	□

**Upon vote, the Chair declared the motion passed and the Findings and Order adopted.**

**Landowner reimbursement – Phillip Hamre:** The total amount Hamre paid into the system is \$38,341.91 and that includes all maintenance and initial assessments and interest on the initial assessments. Swenby explained that according to the records she could find, Hamre did plead his case at the preliminary hearing and did indicate his concern with these parcels, but did not attend the final hearing. LiDAR confirmed that Hamre’s parcel does not benefit from the project. Three options were presented to the managers:

1. Do not reimburse for any expenses
2. Reimburse all expenses paid, less interest (\$34,944.04)
3. Reimburse all expenses paid (\$38,341.91)

A **Motion** was made by Manager Engelstad to reimburse Hamre the full amount of \$38,341.91, **Seconded** by Manager Andringa. Manager Hamre Abstained. **The Motion was carried.**

**Computer Purchase:** The computers at the watershed have been starting to act up, freezing and bogging. They are over six years old. Swenby would like to be proactive instead of reactive. Two quotes are provided. They estimate an additional 5 -6 hours for labor to transfer everything over at \$125 per hour. Quotes were provided to the managers. The main computer is quoted for \$1,846.99 and the second computer is quoted for \$599.00. A **Motion** was made by Manager Engelstad to purchase new computers and hire Garden Valley to install, connect to the server, set up printers and transfer the data, **Seconded** by Manager Hamre. **The Motion was carried.**

## 9. OTHER BUSINESS

The managers received information from MAWD.

Gene Brekke has asked the managers to review his landownership in sections 33, 34 and 35 to determine if he can be removed from Project # 24.

## 10. PERMITS:

Several Permits were brought before the board. A **Motion** was made by Manager Andringa deny the following permits, **Seconded** by Manager Hamre. **The Motion was carried.**

- Permit 22-021: Gene Haugen (Sletten Township), Sletten Township, Section 23, install a second 36” culvert
- Permit 22-022: Gene Haugen (Sletten Township), Sletten Township, Section 24, replace 60” culvert with a 36” culvert

The district has requested a hydraulic analysis report so that proper and adequate sizing can be performed. This is a legal drainage system with an assessed area. Typically a permit like this would be tabled until additional information is received, but district rules state that approval/denial must be done within 60 days from the receipt of the permit. Given that the next board meeting is early June, it is unfeasible to ask the Township to obtain this information by the next board meeting. The Township can reapply and submit the analysis. The district then can adequately size the culverts.

- Permit 22-023: Emily Lundin, Woodside Township, Section 23, Install culvert (not in our watershed district)

A **Motion** was made by Manager Engelstad approve the following permits, **Seconded** by Manager Bartz. .  
**The Motion was carried.** Hermann has reviewed the permit and has

- Permit 22-25 Jay Gunderson, Bejou Township, Section 4, Install Grade Stabilization

A **Motion** was made by Manager Bartz approve the following permits, pending the engineering teams' approval, **Seconded** by Manager Engelstad. **The Motion was carried.**

- Permit 22-024: Austin Jones, Onstad Township, Section 21, Remove and replace culvert

Jones stated that he is concerned that there is Red Lake Watershed District Water coming into the Sand Hill River Watershed, and questioned if the size should be increased. It was explained that this is being evaluated and until a public hearing is held, the board is unable to confirm any corrections along the boundary of # 102. This is currently in the process within the board and the Red Lake Watershed District. Because of the public safety hazard the township plans to replace it with the same size at the same elevation.

- Permit 22-26: DuWayne Engelstad, Scandia Township, Section 30, replace culvert and widen crossing
- Permit 22-27: Pat Taylor, Liberty Township, Section 22, Install dry crossing

## 11. ADJOURNMENT:

The next regular meeting will be held Thursday, June 2, 2022, at 8 AM. As there was no further business to come before the board, a **Motion** was made by Manager Hamre to adjourn the meeting at 12:02 PM, **Seconded** by Manager Engelstad. **The Motion was carried.**

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Donna Bjerck, Administrative Assistant

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JJ Hamre, Secretary