

**PINE COUNTY SOIL AND WATER CONSERVATION DISTRICT
MINUTES
March 24, 2009**

The Pine County Soil and Water Conservation District Board of Supervisors held their monthly meeting on Tuesday, March 24, 2009. Supervisors present were Skip Thomson, Paul Olesen, Kelly Osterdyk, JJ Waldhalm and Doug Odegard. Office staff present were: Jill Carlier, District Manager; Tim Olson, Office Assistant; Robin Poppe, Resource Conservationist/Wetland Specialist; Sam Martin, Water Management/GIS Specialist; and Bob Korth, NRCS District Conservationist. Also present were David Koland, and Don Slama Sr.

CALL TO ORDER: Doug Odegard called the board meeting to order at 4:30 p.m.

PUBLIC COMMENT PERIOD:

Don Slama Sr. questioned when the next Citizen Task Force meeting would be held.

APPROVAL OF AGENDA:

Motion by Olesen, seconded by Thomson to approve the agenda with the additions of TSA Contract, DNR Flyovers, Township Letter, Possible Resolution and the St. Croix River Basin Conference added to the agenda.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

FEBRUARY MINUTES:

Motion by Olesen, seconded by Thomson to approve the February minutes with corrections.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

MARCH FINANCIAL STATEMENTS AND PAYMENT OF BILLS:

Motion by Olesen, seconded by Osterdyk to approve the March payments of bills, including a \$12,000 funds transfer.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

WP TASK FORCE POLICY STATEMENT:

Carlier stated the Pine SWCD Board approved the Water Plan Task Force Policy Statement last fall. The Water Plan Task Force approved the Policy Statement at the February Water Plan meeting. A signature is needed by the Chairperson.

STATE COST SHARE:

Carlier stated there are no cost share projects.

REVIEW MEMOS OF UNDERSTANDING:

Carlier stated that we have memos of understanding with NRCS, FSA, USDA, Forestry and IT. We have had no problems/issues/concerns with any of these in the past year.

Motion by Olesen, seconded by Osterdyk to approve all existing Memos of Understanding.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

2008 FINANCIAL STATEMENT:

Carlier stated that the 2008 Financial Statement was handed out. After they were submitted an error was found in our asset listing sheet. It amounts to just over \$200. Carlier emailed the financial person at BWSR for advice on this issue. His advice was to submit the 2008 Financial Statement the way it is. BWSR will be sending a letter stating that we need to have an audit done in 2009, at this time the issue may have to be fixed. We are able to solicit bids at this time to prepare for the upcoming audit this year.

Motion by Olesen, seconded by Waldhalm to approve the 2008 Financial Statements.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Motion by Olesen, seconded by Waldhalm to approve requesting bids for the 2008 Financial audit.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

TSA CONTRACT:

Carlier stated this contract is for the merger of the IMPACK 6 and CCLNS. St Louis is the host county for the new engineering group. Carlier submitted the contract to John Carlson, Pine County Attorney, in February. Carlson’s comments are attached to the contract. Thomson questioned if these comments were discussed at the Duluth meeting. Carlier stated that she received the comments the day after the Duluth meeting.

The merger will be effective July 1, 2009. RC Boheim, South St. Louis district manager, will finalize the contract, and then send the final contract out to all the district boards to sign.

Osterdyk stated the other host office could be in Mora, and that there is still some budget information to look at.

Carlier stated that we should to have the board approve this. We can bring this back to the next board meeting if the board wishes to review the information or we can approve it tonight.

Motion for a consensus to approve the information on the TSA Contract.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

DNR FLYOVERS:

Carlier stated we received a letter from the DNR stating there would be a countywide fly over. Carlier started drafting a letter asking DNR not to fly the whole county. She spoke to Julie Olson about the letter and Olson stated it is required by the DNR that all counties must be flown over at some point, and Pine County is due for a fly over. Olson stated that once the DNR starts the fly over, if a lot of violations are spotted, the DNR will only fly part of the county. The board agreed to hold off on sending the letter to see how much of a work load there will be after the flyover.

DISTRICT CONSERVATIONIST REPORT:

Korth reviewed the attached report.

Korth discussed the new FOIA regulations including the “Attachment C” form. Korth stated the deadline for this process is June 1st. He also stated we have to be careful with the information we give out.

The board discussed if Pine SWCD should disconnect from USDA computer system.

Poppe stated the benefit to being hooked up the USDA system was all the resources we had available, but resources are becoming very limited.

Thomson questioned weather we could have one computer off the USDA system.

Carlier stated the maintenance agreement with the USDA system could change from year to year. We could get bids on estimates on setting up our own network. Carlier spoke to several districts that have unplugged from USDA, and they are pleased with the move.

Olesen stated we need to look into going on our own, if we could get a good maintenance program, and address all the issues.

STAFF/SUPERVISOR REPORTS:

Wetlands:

Poppe stated she typed up a report on the Askov stabilization ponds for the board to review. Poppe spoke with the city of Askov clerk, and the city will discuss the contract for the monitoring on April 8th. There shouldn't be a problem if the board wants to approve this as a contingent on this issue.

Osterdyk questioned whether the TEP made a decision to approve this issue.

Poppe stated the TEP made a recommendation to approve with contingencies. The TEP recommendation of the type 3 wetland impact contingent of purchasing wetland bank credits. Also, approval of their remaining application contingent on approval of the wetland boundary per access and for the replacement wetland the city of Askov contracts with a consultant for the monitoring and maintenance and deed documents provided.

The reason for this is the delineation for the access and the replacement wetland. It still needs to be reviewed, and also the City of Askov is discussing about having a contract with a consultant regarding monitoring. The City will meet April 8th. One of their concerns is the money, and they are hoping to get grant money to pay for that. One of the things that were relayed to the city at the TEP meeting was that the TEP have a successful replacement wetland, and if it isn't then corrective action is ordered. This is why we've been talking about monitoring and performance bonds and things like that. Corrective action is ordered, and in the long run it usually costs you more. If you have a consultant that is reviewing and sending in the monitoring reports, reviewing the replacement wetland every year. If he see's evasive species you can do spray or do whatever you need to, to eradicate. That is what they will be discussing on the April 8th.

The reason we did it this way is if the board decides to approve this they can move quickly on some of this such as purchasing those bank credits for the type 3 wetland. We did set a date to get out there and look at the delineation line which is April 1st, and hopefully that will be approved by the TEP. That is why this recommendation is so long. If you approve it tonight, they can start working on purchasing those bank credits and move this along for the city of Askov.

Motion by Olesen, seconded by Thomson to approve the stabilization ponds for the city of Askov.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Water Management:

Martin stated he went with Osterdyk and looked at some projects on the Snake River. At the Snake River meeting last month the MPCA are planning to do a TMDL of the Snake River. Pokegama and Cross Lake have both submitted for a work plan that involves monitoring and land use. The MPCA will do some biological sampling this year. Also at the meeting there was a guide to interpreting stream assessment reports for 2010 this is their draft for the impaired streams in the St Croix basin. Bear Creek was added which is in the lower Snake River area. There are also plans to do a TMDL on the Grindstone River in 2010.

Martin also stated that at last month's Snake River meeting the board approved \$25,000 for the City of Pine City's rain gardens that are part of the street reconstruction project. The board also approved \$1,800 each for Pokegama and Cross Lake, and for Ed Doberstein to continue sampling this year. The Snake River board also approved \$1,000 for Pokegama and Cross Lake Associations to hire an expert from Texas Tech to come to Pine Tech to speak about Anaerobic Digesters.

Forestry:

Waldhalm stated that representatives from all areas of the state were at the meeting informing us on forestry issues. BWSR was at this meeting as well as a local youth group educating them about forestry.

Impact 6:

Thomson stated the merge was discussed at the meeting. July 1st will be the merge date.

RC&D Onanaegozie:

Olesen stated there will be a meeting on Thursday March 26th.

Snake River Citizen Advisory Committee:

Martin discussed this in the Water Management.

Legislative:

Nothing at this time.

Personnel:

Carlier stated that a personnel has been scheduled on April 8th.

Policy:

Carlier stated the policy committee met 2 weeks ago, and a rough draft of the Information Request Policy was presented to the board. This has been split this into two policies: one for citizens and one for supervisors. Thomson questioned if the citizen request means requesting somebody else’s file. Carlier confirmed that it did. Olesen’s concern was if someone comes in and requests a WCA file and they take the file out and show other people and the person whose file it is decides to sue. If a supervisor accompanied that person when the WCA file was looked at, is the supervisor liable also. Carlier stated it would not be a file that is an open and active violation. It would only be a WCA file that is complete. Once the file is done it becomes public information.

Thomson questioned how do we decide as supervisor’s who comes in the office when someone requests a file. If it is in our district does that supervisor come in to the office, or do we have one person on call that comes in when a file is requested. Carlier stated the person requesting the WCA file must arrange for a time to meet with one of the supervisor’s to review the file. She also stated we need to set the next policy meeting date. April 13th or the 20th were dates possible for the next meeting. Osterdyk and Waldhalm will email Carlier with their schedules for these dates.

Trees:

Olson stated there are 204 tree orders as of today, with 10 varieties out of stock.

Envirothon:

Carlier stated the Envirothon is Monday May 4th. The southern region has 20 teams registered and will be held at Camp Onomia in Onamia.

MISC ITEMS:

St Croix River Basin Conference:

Osterdyk stated these conferences come up annually. The conference gives an update of the St.Croix basin. The Snake River is part of the basin. The meeting this year will be held on April 16th, and registration is due by April 7th. The cost is \$50 for the registration. Osterdyk would like to attend this conference.

Motion by Olesen, seconded by Thomson to approve Osterdyk attending the St Croix River Basin Conference at the cost of \$50.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Township Letter:

Carlier stated she received a packet from Larry Foster today. The packet contained a letter from Larry Foster, as well as Susan Alderink from Pokegama Township. These people have alot of questions about a subdivision, and a road in the subdivision. Also attached to the letters is information from Poppe, and a statement from Gordy Johnson the Pokegama Township Zoning Administrator who was on-sight last week with Poppe.

Carlier stated we need to somehow address this issue. Julie Olson is going to contact Mr. Foster and Poppe on the results of her findings on the Foster property. According to Julie Olson, DNR WEO, this issue is a civil issue, and that means WCA jurisdiction doesn’t apply. Poppe stated she copied

part of the file from last year for the board to review. The TEP investigated and found there actually were two land owners instead of one, and ended up with two deminimis exemptions. A restoration order was rescinded because both landowners were eligible for an exemption.

Waldhalm questioned the restoration order, why only one of the three pages of the order was available to the supervisor's. Poppe stated she only copied the part of the file to give some history. Waldhalm requested to see the other two pages of the file to be able to review the whole order, and would like this added to the minutes that the two pages are missing.

Poppe stated that DNR rescinded the order. It was rescinded because two exemptions were issued last year. Poppe stated she had no contact with Mr. Foster until March 19, 2009. Her previous contact had been with Gordy Johnson and Susan Alderink of Pokegama Township She tried to explain the WCA rule and how it administers wetlands. The rule recommends a person come to the LGU, but they are not required. Originally there was never an exemption issued on the site. There was a site visit by the Pine SWCD before Poppe was employed by the Pine SWCD. The problem with this case is we thought there was one owner, but there are two. There was never a SWCD file regarding a site visit on this site project. The reason this is confusing is one of the neighboring landowners is having flooding problems due to the road or the pond. Poppe stated that when she went out to his farmyard, portions of the farmyard were flooded. None of his buildings are flooded. The culvert was looked at and some water was flowing through. The ditch on Foster's property exits onto Rolling Hills Road. The ditch looks like it runs uphill, there should be a survey done to see what the elevation is. It can be deceiving when looking at it with the naked eye.

Waldhalm questioned which direction would be uphill, and which direction the water was running.

Poppe stated the water was running north. There was a lot of vegetation on the edges of the road. Foster found the culvert and showed the TEP. Poppe stated the elevation of the culvert could be too high and too small for the road, but she stated she is not a hydrologist and could not make that decision.

Poppe stated we don't recommend what size culverts and elevation because we are not engineers.

Carlier stated that by the tone of these two letters we need to respond to these people.

Thomson stated that maybe a few of the supervisors should go look at the property. Carlier stated if we do this DNR should be present.

Motion by Olesen to write a letter to the fact that this is outside our jurisdiction.

Motion failed for lack of a second.

Waldhalm stated he would not agree with this for the fact that it's soil and water. There's a pond that's flooding someone's land. Waldhalm would like to make a motion to look into this further.

Osterdyk stated he would like to take some time and look at this information more. He is not ready to act on this issue at this time.

Carlier questioned if we should contact Mr. Foster and tell him the board will look into this matter in more detail. Waldhalm stated we should get documentation stating that the letter was received on this date, and is pending review from the local board. Olesen stated he would like to withdraw his motion to write a letter. Maybe we should table this with a pending report from what supervisor's would like to go and look at the property.

Motion by Osterdyk, seconded by Thomson to table this issue until a further investigation on these files are conducted.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Possible Resolution:

Carlier stated she received an email from Waldhalm today about a resolution he would like to propose.

Waldhalm stated that according to the WCA rulebook, we don't have a local appeal process here. It clearly states that every citizen has a right to due process, and we've been neglecting that. We do not have an appeal process and never have had one.

Osterdyk stated that he is okay with the appeal process going to BWSR.

Carlier stated that at the next policy committee meeting this issue could possibly be addressed.

Thomson stated that we need an appeal process.

Waldhalm would like added to the minutes that he requested BWSR minutes from Carlier. He was told that someone was on vacation and couldn't get the BWSR minutes. Carlier stated the months that are missing are because there were no meetings held during the months of February, July, and November 2008.

Motion by Waldhalm, seconded by Thomson to approve Dave Koland address the board.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Koland stated that he went through the WCA rule book, and it was very clear that an appeal process is needed. The TEP panel makes recommendations for the board to approve, and if the public disagrees with the board then you have an appeal process that comes to the board with a public hearing. Koland also stated he had great difficulty figuring what the process should be for a cease and desist.

Carlier stated if Poppe makes the decision the appeal gets heard here. If the board makes a decision based on TEP findings or recommendations it is appealed to BWSR.

Olesen stated it seems like there are people here at the meeting who want to second guess the TEP. These are our technical people making the recommendations.

Odegard stated that we should look at what the policy committee brings to the board and discuss it then.

NEXT MEETING DATE & TIME:

Motion by Olesen seconded by Thomson to hold the next meeting on April 21st, 2009 at 4:30p.m.

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

ADJOURNMENT:

Motion to adjourn the meeting at 7:00 p.m. by Odegard

Affirmative: Olesen, Osterdyk, Thomson, Waldhalm

Opposed: None Motion carried

Respectfully submitted,

Paul Olesen, Secretary