

**PINE COUNTY SOIL AND WATER CONSERVATION DISTRICT
MINUTES
September 22, 2009**

The Pine County Soil and Water Conservation District Board of Supervisors held their monthly meeting on Tuesday, September 22, 2009. Supervisors present were Skip Thomson, 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; Mike Yrjo, Soil Conservation Technician; and Bob Korth, NRCS District Conservationist. Also present Ryan Hughes, BWSR;

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

PUBLIC COMMENT PERIOD:

None

APPROVAL OF AGENDA:

Thomson requested to discuss the district work schedule, when the district moves to the new location in Sandstone.

Motion by Thomson, seconded by Osterdyk to approve the September agenda.

Motion carried

AUGUST MINUTES:

Motion by Osterdyk, seconded by Thomson to approve the August minutes.

Motion carried

SEPTEMBER FINANCIAL STATEMENTS AND PAYMENT OF BILLS:

Motion by Thomson, seconded by Waldhalm to approve the September payments of bills, including a \$10,000 funds transfer.

Motion carried

SWCD OFFICE MOVE UPDATE:

Carlier stated Pine County moved our storage shed to the Sandstone location at no charge to the district. Postcards with the new district address have been sent out to our regular contacts. A news release will be in the next week's local newspapers with our new address and phone number. STS will be moving the district on Monday September 28th to our new location.

ST CROIX TMDL:

Carlier stated the managers of the nine districts have decided to call the group Conservation St. Croix. The group has put together a memorandum of agreement, working with the nine districts. Our board needs to approve and sign this agreement, and send it down to Chisago before the next board meeting. Thomson stated if the district signs the agreement there should be a district supervisor on the committee.

Carlier stated much of the watershed is in Pine County, and it would be important for the district to be involved, as many of the projects will be in Pine County.

Motion by Thomson, seconded by Osterdyk to approve and sign the Conservation St. Croix Memorandum of Agreement.

Motion carried

HEALTH INSURANCE-NON PARTICIPANTS:

Carlier stated at the August board meeting, the board voted to approve the new health insurance plan. However after reviewing last month’s board and personnel minutes, part of the recommendation was missed. Non participating employees would receive a stipend. The recommendation from the personnel committee was 50% of the single deductible rate.

Motion by Thomson, seconded by Odegard to approve the nonparticipating employees to receive 50% of the single deductible rate.

Motion carried

PUBLIC ROAD INFORMATION:

Carlier stated this topic was discussed at last months meeting. A notice was sent to all townships in Pine County to providing training and information on road improvements. Only one township so far, has shown interest. BWSR was contacted, and has agreed to provide the training.

Thomson stated he spoke with two townships, and they showed interest in attending the training.

Poppe stated a letter is sent out every year to the townships letting them know she will attend township meetings to answer questions and provide information.

STATE COST-SHARE CONTRACTS:

Carlier stated there is an AG-BMP loan application. This is a formality brought before the board to approve. Once the board approves the contract it is sent to the Kanabec SWCD to be processed and sent to AG-STAR 4 for approval and funding.

Matt Tackala: Purchase a skidster for Ag waste management program. Two bids have been submitted. Total project cost for the first bid is \$33,700. Total project for the second bid \$33,900.

Motion by Osterdyk, seconded by Thomson to approve the Ag-BMP loan application for Matt Tackala for the lowest bid.

Motion carried

DISTRICT RETREAT:

Carlier stated in the fall a district retreat is held. Staff and supervisor’s meet off sight to discuss the annual plan, projects and issues. This is generally an all day meeting.

Thomson questioned whether this could be a half day meeting, instead of all day.

Waldhalm stated the District Retreat should be held before the board meeting.

Motion by Osterdyk, seconded by Thomson to approve the District Retreat meeting at 1:00 p.m. November 24th, prior to the board meeting.

Motion carried

FOREST EASEMENT PROGRAM DRAFT PROPOSAL:

Carlier stated this topic has been discussed the last few months. A draft proposal was sent out in the board packs.

Hughes stated a group called the Tree Team got together with various entities’s to form this new program similar to the RIM program. This is a voluntary easement program. The SWCD’s will have landowner contacts, and BWSR will have the administrative easement process.

Motion by Thomson, seconded by Osterdyk to approve the district’s involvement with the Forest Easement Program.

Opposed: Waldhalm

Motion carried

MASWCD RESOLUTION PACKET:

Carlier stated the resolution packet was sent out in the board packs. All of the resolutions were brought to the state association from the resolution meetings in June. A voting sheet was also in the packets that need to be sent back to the office as well as signatures on the original voting form. The form is then sent to the state association.

DISTRICT CONSERVATIONIST REPORT:

Korth reviewed the attached report.

STAFF/SUPERVISOR REPORTS:

Wetlands:

(Waldhalm requested this section of the September 22nd, 2009 minutes be typed verbatim.)

(Poppe) Okay we had our meeting today, and uh I provided you with the TEP report. I'd like you to spend some time reading, um the findings of John Vacarious. And uh the reason is, uh what the TEP would like to do is, uh TEP has been out to the site twice to review the delineation, and we have not been able to do so because the first the line wasn't there. Cattle had knocked the stakes over. And the second time um, parts of the line were missing um, and where we thought were the line was, um we had some disagreements with the consultant. But typically what the TEP wants to do is deny this delineation um application delineation report. But I want to bring it to the board and actually have the board deny it. So the TEP is going to recommend that the board deny this delineation, and you can read why. Um you can ask questions, and I can elaborate but um, if the board makes the decision to approve or deny um, and it's appealed, then the appeal would directly go to BWSR, rather than back to our board since our board made the decision in the first place. And we think this might be um, a decision that the applicant may want to appeal so, we'll just skip the, the me making the decision and bringing it to our board we'll just have the board make the decision tonight, so.

(Thomson) What happens if the boards tied tonight?

(Poppe) Well, if the boards tied tonight, I'll bring that back to um, the TEP panel, there may be a member on here that would appeal that, maybe a member on the TEP that would appeal the boards, you know I don't know we'll work it out.

(Thomson) And then that appeal will go directly to BWSR right?

(Poppe) Well, you know the board would have to come to some, I think, you know conclusion. Um, I guess maybe we could wait til the next month and if Paul is back.

(Thomson) I'm just wondering if the time line allows that Robin.

(Poppe) Um, I extended the application til October 15th, but I probably could do another extension, if I do so I'd have to get permission from the property owner to extend it since I have already extended it one time, but I don't think that would be a problem. I think he would probably agree to that extension for a decision.

(Odegard) What are your thoughts on it Skip as far as the a,

(Thomson) No, You don't want to know my thoughts.

(Odegard) That's why we pay you to go to all these meetings, so you can come back and,

(Laughter)

(Thomson) This, this is a field trip, Doug you should go on.

(Odegard) Oh no.

(Osterdyk) Is this one of your projects sites?

(Odegard) Yah.

(Waldhalm) How many delineations go in front of the board? I mean historically is this what happens?

(Poppe) No, no this is the first time, usually I make the decisions. And you know I use the TEP, and the TEP makes the decision. Um and I, you know I've been given that ability to do that by the board, but since this is, could possibly be appealable um, rather than me make the decision and then be appealed to our board, and our board have a hearing and then they make the decision we could just have the board make the decision. Would actually save the ah applicant \$500.00 because there is a cost to appeal to our board for \$500.00 because most likely our board will have to have a special meeting, we have to put up notices so we charge the applicant and it is not refundable. So this could save the applicant \$500.00. If they do appeal it to BWSR there is a fee there as well but um, you know so it's, it's just streamlining the process, we don't have to do it, but our TEP felt that it might be the quickest easiest way for the applicant to get a decision, so.

(Waldhalm) Historically though, this is the first time this has ever happened where the board gets to vote.

(Poppe) That I brought it to the, no I mean the board votes on banking applications, and replacement applications, but the first time for a delineation. Usually I make the decision.

(Waldhalm) So this is like called findings and fact?

(Poppe) Right whenever we have a TEP panel meeting um, every month you read the findings of fact, and when I send out a, a notice of decision be it approved or denied the findings fact go with it. Once you read it um, you can see what some of the problems and inconsistencies that we're having with the,

(Waldhalm) Who is Greg Larson.

(Poppe) He's the state soil scientist, and we called him on to the site because it's a difficult site. It's a disturbed site. There's a, the area has been diked um, there's cattle that pasture on it um, so it's a very difficult site. Um, part of the problem um, with the, the first time the, thee a, TEP actually went out there to review the line, there was no line, the cattle had knocked down all the stakes, so we physically couldn't even see the line. The second time we came back, part of the line was in. Um the consultant was on site with us. We went to an area where we thought there was a problem, and um, there was some disagreement with the, the line and basically the consultant walked off, left the TEP but remained onsite and then the TEP reviewed the, the, the area, not being able to concur with the line. So what we did is we um, asked actually Corps did, not, not the TEP but Corps asked Greg Larson who's the state soil scientist to take a look at the site um, because one of the things the consultant had stated to us is he put his delineation line in based on soils, didn't seem to make sense to us because what we were seeing out there and what his report stated just didn't match, so we brought the state soil scientist out there, and what his findings,

(Thomson) It was two different things.

(Poppe) Pardon,

(Thomson) It was two different things.

(Poppe) Oh right.

(Thomson) What we saw and what he saw.

(Poppe) What he saw, I mean the line just, right we, we couldn't concur, we couldn't agree with the line. So we brought him out there too though just to, to kind of ah, see if he agreed with the conclusion of the TEP, which he did.

(Waldhalm) Sounds like Greg Larson, I mean right here he says Larson stated the soil is hydric and hydric soil is probably, probably doesn't sound like,

(Poppe) Probably what, finish the sentence.

(Waldhalm) Probably limited to the older line.

(Poppe) To know the older line, well the reason he says probably limited to the older line cuz we did not go out there and dig a bunch of soil.

(Waldhalm) To the west.

(Poppe) To the west. We did not go up there and dig a bunch of soil pits, I mean it, it to do a delineation it's quite extensive, it takes quite a bit of time. He was just there to analyze the soil, but that's why he stated that. But I think the most troubling, if you read further is the paragraph in which later the consultant calls me and tells me that the second time we were out there he cannot vouch for that delineation line because the GPS line because the GPS um, information that he gave John Vacarious, according to him John Vacarious couldn't read it and probably put the line in wrong. So the second time we were out there the consultant knew that the line was probably in the wrong location, and never informed the TEP. He called me later and told me that, so I think what we have is a, a consultant that's you know not providing us with the information we need to assess the line, and obviously being somewhat deceptive. Um if he knows that the line might be in the wrong location, and he doesn't tell us where, where, when we are on site that, that that could be the case. He calls me about a week later and tells me tells me that. After the state soil scientist is, is out there. So I mean it's kind of troubling. But that's why I am bringing it to our board to make the decision because we, I've never, I've done this since 1991 and I've never encountered a situation like this with a consultant that is not giving us the information we need and um, knowing that there could be problems and inconsistencies and not telling us til after.

(Waldhalm) In your opinion.

(Poppe) No, that he told me that, he told me that. He said I cannot vouch for the line that was put in on the day that you did your TEP site visit, and he knew it, and he was on site that day and he never told us that. It's not my opinion, that's his statement. He told me he could not vouch for the line. He was there that day, he could have told us that day, I can't vouch for the line, he did not.

(Waldhalm) Is that the line you talk about with the cows?

(Poppe) The delineation line, the, the delineation line that was, was in. So that's coming directly from him. But that's why I'd like our board to make a decision because this um, you know, its, its we're dealing with a consultant that, I quite frankly, I don't think is doing an adequate job.

(Waldhalm) And that's your opinion.

(Poppe) Well it's the TEP's. This is the TEP'S recommendation, also the state soil scientist doesn't agree with the line, and the corps does not concur with the line.

(Waldhalm) And that's your opinion that he's not doing a good job.

(Poppe) No, they, the TEP doesn't, the TEP's recommendation is that it cannot, it cannot concur. The corps also wrote a letter saying they cannot concur, and the state soil scientist says he cannot concur with the line.

(Waldhalm) Do you have that in here with the letters of the,

(Poppe) Well I do have a letter, it's not in there, I do have a letter from the corps. There will be a report coming from Greg Larson, and another letter coming from the corps, I don't have those right now. But once I do were gonna attach those to the minutes. So that will be attached to part of the record. But right now I don't have it.

(Waldhalm) What are they doing, they want a gravel pit.

(Poppe) They want a gravel pit.

(Odegard) Okay, so what we are looking is, whether we go ahead and give a, a Robin to make the, a I guess the decision on this or should the board make the decision on that, and that's where we're at right now as far as a motion. So I would entertain a motion

(Thomson) Ah, let's wait now. Now that Robin's saying this is the first time that's she's brought something like this to the board, this is gonna set a precedence guys going forward.

(Poppe) Well I don't think so Skip. I mean I'm,

(Thomson) You just said this is the first time you brought something like this to the board.

(Poppe) A delineation, and they, I haven't given the ability to, to make delineation decisions, which, which I typically do.

(Waldhalm) Is that in writing.

(Poppe) Right, it's in writing. But, but because this is such an unusual circumstance, that's why I'm gonna, I would like the board to make a decision. You don't have too. And maybe they won't appeal it. But what I, the reason I would like to, it would streamline the process for the applicant. Again I guess it's not my concern the it would cost an additional \$500.00, but you know if we were to hear the appeal locally it would be an additional \$500.00. You'd have to have a special meeting, we'd put out notices, you'd tape record the meeting. You do all of that just in case it's appealed to BWSR. We would then bring your board's decision to the Board of Water and Soil Resources when it's appealed. But you don't, you don't have to, the TEP agreed that um, you know the board should make the decision because this is, we have a consultant, part of the problem with the Wetland Conservation Act, the consultants um, he's not certified um, one of the programs that BWSR has going on right now is that delineators get certified. Supposedly if they're certified um, and they do not act ethically there would be a board to review behavior um, and the board could take their certification away. Right now that board is not set up, and Ken Meeks is not certified, and certification is not a requirement. So,

(Waldhalm) Are you certified?

(Poppe) No, no, so,

(Waldhalm) So, he's not certified.

(Poppe) Right, he's not certified

(Waldhalm) And you're not certified.

(Poppe) Right,

(Waldhalm) But you feel, and Greg Larson feels then who else feels that your right and he's wrong.

(Poppe) Well, not I'm right, the TEP panel cannot concur,

(Waldhalm) Which is, which is,

(Poppe) The TEP panel, which would be me, which would be Joan, which would be Ed. That's the TEP panel.

(Waldhalm) Are any of them certified?

(Poppe) The Corps, the, the Corps of Engineers also concurs that the line is not in the appropriate place. And Greg Larson did not concur that the line that the line was in the appropriate place.

(Waldhalm) But nobody's heard of,

(Poppe) And Skip you agreed with the line being in the appropriate place.

(Thomson) No I don't agree with the line being in the appropriate place but,

(Poppe) But I guess my,

(Thomson) But I guess my, my, my, thing here for the board is this. I believe we were elected and the process is set up so that the public can appeal that decision to us. We've given that authority to Robin to make that call with the help of the TEP. Now my personal opinion on this sitting here now is I would feel more comfortable having Robin make that decision, and I will support her with that, if the landowner chooses to appeal it he has the ability to do that, and none of us sitting here knows if he will or won't, but if we take that away from him, we'll never get that back. And to sit here tonight with none of you being on that sight but me, I think the safest route is to let Robin do her job, and we give her that authority, and if the public feels that she's all wet, then that appeals gonna come her.

(Waldhalm) He's never had an opportunity to appeal it in front of his elected officials that's so whatever gets him there.

(Thomson) I mean I just feel that's what we're elected to do. That's the way everything is setup and as I'm learning this process, that's kinda the way this thing works, and I mean I could tell you a lot of other things about this site, but that really isn't the issue. The issue is, cuz I really believe once it goes down in the minutes, that the board is now making a decision that we gave Robin. That sets a precedence. And to me that's kinda going around the appeal process and as a supervisor, I'm not comfortable doing that. I think Robin can deny it. She has every right to do that. I'd feel that everybody sitting in the TEP is going to agree with that. And that the landowner feels strongly that, excuse me, all these people are wrong. I believe as supervisor's we owe it to hear his side in that appeal if it happens. You know to say we need to do it this way to stop the appeal, and to save him \$500 bucks you know I,

(Waldhalm) If he needs, if Marvin needs \$500 dollars I'll give it to him, I wouldn't worry about that part of it.

(Thomson) I mean that's my thought, I mean everybody as a supervisor, you guys can have your own thoughts, but I kinda feel I was elected to try to figure this out, and I don't, I don't want to circumvent the system and, I'm getting to understand the process I just think to have a vote tonight, and it could go, be a tie vote anyhow. Could be, it may not be, I don't know.

(Odegard) So is there any further discussion.

(Poppe) Well, I think if it's a tie vote I might as well just deny the, the, you know the application. Then that way, again streamline the process instead of waiting another month before a decision's made. That's what I would recommend, if it's gonna to be a tie, just I'll just go ahead and deny it based on TEP recommendations to deny it, then that speeds it up. Their not waiting.

(Thomson) Well I'll make a motion that Robin makes the decision on the case, and we as supervisors just do nothing and see if there is an appeal. That's my motion is that Robin makes the decision on the delineation.

(Osterdyk) I'd second that.

(Odegard) Okay.

(Osterdyk) Just,

(Odegard) Oh, I'm Sorry.

(Osterdyk) Go ahead Doug.

(Odegard) I was gonna, any further discussion.

(Waldhalm) When does the a, when does the now, is Marvin gonna get a formal notice that he can appeal to his local elected officials?

(Poppe) Right, when I do a notice of decision there is a form that, that is used by BWSR, you know it's a BWSR form, and on there it will say that I made the decision.

(Waldhalm) What about the local,

(Poppe) It, it, yes, and it'll state that I made the decision. And on there it gives the address of this board, and says this is where you locally appeal. So it's right on the, the form. And then along with the form goes the findings which the findings will be what you read tonight.

(Thomson) And Marv's gonna get a copy of all of this.

(Poppe) Right, Marv will get a copy, and John Vacarious will get a copy. They'll both get copies of it.

(Thomson) We talked about that at the TEP. Even from the, even from the state guy.

(Poppe) Right.

(Odegard) Yeah, my biggest concern is just that he knows, knows what the appeal process is, and that he knows he can,

(Poppe) Mmm, Mmm, It's right on there, and I can, I can show you, there's a check box, if, if the, like when the board makes a, lets say you make a decision to approve a replacement plan, there's a check box I mark that you made the decision, and then if somebody wants to appeal it, that goes to BWSR, so there's two check boxes. One for me and one for the board. So I check which ever, which ever one is appropriate when I make a decision, and then it gives them the, the addresses and numbers.

(Waldhalm) Is that a new, since we just recently added the right to appeal locally, and we never had before and is that a new form.

(Poppe) Well they've revised, they've revised, the, they've revised the form over the years, but no, I've been using it for a while.

(Odegard) It's a BWSR form.

(Poppe) It's a BWSR form. Yeah they update the forms every once in a while but it's, I've shown it to Kelly in the past and,

(Waldhalm) There's never been a local appeal process here before.

(Poppe) Well I think doesn't the a, a policy committee need to get together and aren't they going to make some rules regarding that.

(Waldhalm) Correct, but if there's never been a local appeal process, it's been on a form though?

(Poppe) Well it's been in, within the WCA rule, the guidelines are there, it, they're already there so you just follow the guidelines that are in the rule, it's already in the rule.

(Osterdyk) And it's been on a form so appeals have been on, on the forms that landowners see, and get on decisions, it's been on there. Appeals have always been on there that's just that's,

(Thomson) A, a, I'll make sure Marv knows he can appeal.

(Odegard) Yah,

(Thomson) Let's just get the vote over, so we can get going.

(Odegard) So,

(Osterdyk) And just to add to that, I, I'm really comfortable with it, you know with people that have been out there you, you got Greg Larson, and Robin, and, and the Army Corps, and, and Joan, people that have been doing this, ya know looking at wetlands, that's all they do is look at wetlands, and, and ,and ,and Skip your comment about, ya know looking, going out there and not being able to determine, is hearing that ya know, on your, what you said there right, ya know, I'm completely with that.

(Thomson) Kelly, that, that's because mine would be this big, and theirs is this big okay, just so you're fully aware.

(Osterdyk) Alright.

(Odegard) So any further discussion.

(Thomson) One other comment on this is, whether, whether this is approved or disapproved there's gonna be many other different government agencies looking at this project because of the size and location. So I mean this is just one small aspect of it. The Army Corps has some major issues, DNR is on the fence on a few things, so I'm comfortable with Robin's decision, and that appeal coming here if it does, and if it doesn't that would be fine.

(Poppe)Yah.

(Odegard) Okay, so all those in favor say Aye, (Aye), opposed, (silence), okay motion carries.

(Poppe) Okay, so what I'll do is deny it then.

Poppe also stated the mining projects in northern Minnesota are looking for mitigation sites in Pine County. The two sites are a sod farm in Henriette, and a sod farm in Willow River. The sod is bought up, and a replacement is done on sight. The site is monitored for five years, and typically the site is then managed by DNR.

Water Management:

Carlier stated BWSR sent a letter regarding the districts presentation of the Scoping Document. A meeting with the working group is planned for October.

Forestry:

Waldhalm stated the Forest Easement Program Draft was discussed.

TSA III:

Thomson stated there is a meeting on September 30th.

RC&D Onanaegozie:

None

Snake River Citizen Advisory Committee:

Odegard stated there is a meeting on September 28th.

Legislative:

None

Personnel:

Carlier stated the personnel committee held a meeting and went through the employee handbook. Possible changes were outlined, and a draft will be sent out before the next board meeting.

Policy:

Carlier stated she went through the Operational Handbook, and sent it to the Policy Committee to review and asked to set up a time to meet.

Trees:

Carlier stated she has ordered the trees for next year.

Envirothon:

Carlier stated Camp Miller has been reserved for the Southern Area III event. Carlier attended the State Envirothon meeting, and a planning meeting will be held sometime this fall.

MISC ITEMS:

Carlier received from the State of Minnesota, our Record Retention Schedule. The schedule has been approved by the state.

Martin is requesting leave October 19th through October 23rd.

Carlier stated the district is applying for a grant that is due in November. If Martin can put the grant together in the time allowed the vacation will be approved. Carlier would like board approval to make the decision to allow Martin leave request, if the grant is finished on time.

Motion by Thomson, seconded by Waldhalm to approve Carlier making the decision to approve Martin leave request October 19th through October 23rd.

Motion carried

Hughes stated MASWCD Meeting on September 23rd in Virginia Minnesota. A BWSR competitive grant process will be discussed at the Area III meeting. The DNR Conservation Workshop will be held on September 28th in Grand Rapids. The BWSR Academy training will be held November 2nd through 4th. A new BWSR website will be available in October.

NEXT MEETING DATE & TIME:

Carlier stated the next meeting will be held in Sandstone at the Health and Human Services, in the county board room.

Motion by Thomson seconded by Osterdyk to hold the next meeting on Tuesday October 27th, 2009 at 4:30p.m.

Motion carried

ADJOURNMENT:

Motion to adjourn the meeting at 6:10 p.m. by Thomson, seconded by Osterdyk.

Motion carried

Respectfully submitted,

Paul Olesen, Secretary