

## **Heron Lake Watershed District (HLWD) Advisory Committee Meeting**

**Thursday, December 21, 2017 8:00 a.m.**

**Heron Lake Watershed District office**

**Heron Lake, MN**

### **ATTENDANCE**

Paul Pietz, Jerry Christopherson, John Shea, Allen Jensen, Jean Christoffels, Jim Eigenberg, Mona Henkels, Jerry Ackermann, Jan Voit, and Catherine Wegehaupt

#### **1. Call to Order**

Paul Pietz called the meeting to order at 8:00 a.m.

#### **2. Minutes**

The minutes of the September 19, 2017 HLWD Advisory Committee meeting were reviewed. A motion was made by Jerry Christopherson and seconded by John Shea to approve the minutes as written. The motion passed unanimously.

#### **3. HLWD Advisory Committee membership**

Paul Pietz has contacted a landowner in Jackson County to fill the seat left vacant by Clarence Madsen. The person has not yet given an answer.

#### **4. HLWD Board of Managers Meeting Observations**

September, October, and November 2017 – The meetings seem to be going smoothly. It is refreshing to have discuss meeting observations and have the discussions reflect the meetings being routine and almost boring. It is good to have managers read their information packets, be prepared for meetings, and have meaningful discussion.

#### **5. Discussion Items**

Jan Voit gave an update on HLWD activities.

##### *BWSR Academy*

On November 2, 2017, Jan Voit traveled to Cragun's for BWSR Academy for the *Real Time Real Work: Civic Engagement* session. The focus of the session was to explain civic engagement methods used, what worked or could have been changed, and provide a training opportunity on a specific technique.

##### *Cover Crop Workshop*

On November 7, 2017, the first planning session for the cover crop workshop was held. Participants included Dane Huinker and Chris Bauer, Jackson SWCD; Jodi DeJong-Hughes, University of Minnesota (UM) Extension; Catherine Wegehaupt, and me. The date was set for January 22, 2018 at the Heron Lake Community Center.

##### *Minnesota Association of Watershed Administrators (MAWA) Meeting*

The MAWA met on November 29, 2017. The Minnesota Association of Watershed Districts (MAWD) Executive Director was introduced. Discussion was held regarding MAWA organization, follow-up from the September meeting, by-laws, committees, and 2017 resolutions.

### *Practical Tips for Building an Effective Workplace*

On November 30, Jan Voit attended this workshop. Angie Becker-Kudelka and Jenny Gieseke, Board of Water and Soil Resources (BWSR), provided information about beating burnout, managing for success, time management, and dealing with difficult people.

### *MAWD Annual Meeting*

Harvey Kruger, Bruce Leinen, Gary Ewert, and Jan Voit attended the MAWD Annual Meeting from November 30 to December 2, 2017.

## **Grants**

### *Clean Water Fund (CWF) Grant Applications*

BWSR made their funding decision on December 20, 2017. The HLWD did not receive funding.

### *Legislative-Citizen Commission on Minnesota Resources (LCCMR) Grant Application*

On October 4, 2017, we gave our presentation to the LCCMR committee. Our proposal did not receive funding.

### *Clean Water Partnership Loan Program*

Septic system loans were completed for Chilel, Sandbo, Zuno-Hernandez, and Hawkinson.

### *Third Crop Phosphorus Reduction Effort Final Report*

The final report was approved by MPCA on October 24, 2017.

### *Major Watershed Project*

Toby Spanier and Karen Terry, UM Extension; Katherine Pekarek-Scott, MPCA; Ross Behrends, and Jan Voit met on November 22, 2017 to plan the upcoming Citizen Council meeting. The Citizen Council met on November 28, 2017. The purpose of the meeting was to generate ideas for community involvement events and begin the planning process.

Toby Spanier and Karen Terry, UM Extension; Katherine Pekarek-Scott, MPCA; Ross Behrends, and Jan Voit met on December 8, 2017. Discussion was held regarding the “must-haves” for the MWP, as well as a potential meeting with the City of Currie and the upcoming Local Work Group (LWG) meeting planned for January 3, 2018.

### *WFDNR Prioritizing and Targeting Endeavor*

On August 1, 2017, Houston Engineering, Inc. (HEI) submitted the information needed to conduct field validation for the WFDNR Prioritizing and Targeting Endeavor. Catherine Wegehaupt submitted the field validation information to HEI on August 31, 2017.

## **Grant Applications**

The Minnesota Department of Agriculture grant application for research on cover crop effects on soil temperature and soil moisture was completed and submitted on December 12, 2017.

The Conservation Partners Legacy Grant period is open. I+S Group drafted an application for funding the wetland work for the Jackson County JD 19 project. The application was submitted on December 18, 2017.

## **Public Drainage Systems**

### *Projects 4 and 84-4A*

Chuck Brandel submitted a memo regarding reestablishment of records for Projects 4 and 84-4A on September 21, 2017. The draft findings and memorandums were sent to Mike Tow for review on October 17. Mike Tow gave his approval on October 18. The documents were distributed to managers and approved on October 24.

On November 20, 2017, the mailing lists were updated and memos sent. The information meeting regarding consolidation of Projects 4 and 84-4A was held on December 6. Several landowners voiced their concerns regarding consolidation of these systems.

*Jackson County Judicial Ditch (JD) 19*

The final hearing for Jackson County JD 19 was held on September 28, 2017. The board ordered the project. Bruce Sellers drafted the findings and order. They were approved on October 24.

*Projects 2, 4, and 84-4A*

Vouchers and checks were created for the damages payments for Projects 2, 4, and 84-4A on October 23, 2017. Payments were approved at the October 24 HLWD meeting. Checks were mailed on October 25.

*Jackson County Judicial Ditch (JD) 30, Branch A-1, and Lateral to Branch A-1*

The Final Acceptance Hearings were held on December 6, 2017. The board adopted the Engineer's Final Construction Report and directed that the contractor be discharged. The findings and orders for these proceedings were drafted and submitted to Mike Tow.

*Jackson County Judicial Ditch (JD) 3*

The Jackson County Commissioners held a hearing on the petition for outlet for Jackson CD 3 on November 21, 2017. Kurt Deter, Rinke Noonan is counsel for Jackson County. He explained the purpose of the hearing.

Bruce Sellers, Wendland Sellers Law Office explained that the petitioners are requesting an outlet for 260 acres that currently drains into Jackson County JD 3. The petitioners requested that the outlet be granted contingent upon the approval of the CD 3 improvement project.

Chuck Brandel described the analysis that has been completed on CD 3 and adequacy of the outlet. The petition for improvement that is before the HLWD has requested the improvement of Branch 9D, which is the branch that would provide the outlet for the property. In its current condition, the outlet would not be adequate. It would provide an adequate outlet if the branch is improved. The open ditch in CD 3 is less than one mile from this property. The open ditch in JD 3 is over two miles away. Because this property is closer to the CD 3 open ditch, outletting that direction would be more efficient.

Ron Ringquist was appointed as the viewer. He recommended that the outlet benefit be based upon the redetermined benefits currently under appeal as part of the CD 3 improvement proceedings. The added benefits for the property are \$68,470. The outlet fee is based upon the benefitted acres and values of the redetermined benefits, prorated share of total benefit, drainage system overall value, and costs for repair and improvement based on the current proposed improvement. The recommended outlet fee is \$32,500. Should the redetermination of benefits currently under appeal revert back to the old benefits, an additional \$1,215 would be added to the old redetermination of benefits.

During the public comment period, Dave Pomerence explained that the outlet in CD 3 is much closer than JD 3, which is why the petition was submitted. Dan Milbrath asked if the property would be allowed to outlet into both systems. Kurt Deter stated that if the landowners are willing to pay the costs, they could outlet into both systems. Chuck Brandel stated that if approved, he recommends that the tile that drains to JD 3 would be capped with cement at the watershed border. In order for this to be done, a petition for removal from JD 3 would have to be granted. Dave Pomerence said that it would be one way or the other, but not both.

The Jackson County Commissioners voted unanimously to grant the petition contingent upon the approval of the CD 3 improvement project. They also voted unanimously to adopt the benefits and outlet fees as recommended. Kurt Deter will draft the Findings and Order based on information provided at the hearing.

*Jackson County Ditch (CD 3) Redetermination of Benefits (ROB) Appeal*

On December 7, 2017, the Jackson County Commissioners met regarding the CD 3 ROB appeal. Kurt Deter, Rinke Noonan provided background of the happenings to date. Kevin Nordquist confirmed that the notice requirements had been met. Bruce Sellers, attorney for the petitioners explained that the appeal was filed because the alternate options requested by the HLWD would change the ROB. Ron Ringquist explained why the ROB would change if the cost to cure deficiency was changed.

Jackson County Attorney Sherry Haley asked Jacob Rischmiller, I+S Group how their report addressed the cost to cure deficiency. He stated that the report was based on the cost of replacing the three tile lines that are in existence. She asked Dave Macek, Jackson County Drainage Inspector if this is the process used by Jackson County for repair of tile lines. He explained that it is how a repair would be done and has been done on all past projects. This is exactly how the Minnesota laws require it to be done. She asked Jacob Rischmiller to explain the options for the improvement that are being considered by the HLWD. They are: replacing the existing three tile lines; capping separable maintenance on tile areas at the cost to improve the tile where the repair costs are higher than the proposed improvement costs; and combining multiple tile branches or laterals with a single line that provides the same capacity.

Sherry Haley stated that there is no evidence that the ROB has been calculated incorrectly. It has been done in the same manner for decades. Any other way of figuring the ROB is theoretical and not an industry standard. The meeting was opened for public comment, no comments were made.

Bruce Sellers requested that the matter be left open and reserve the ability to look at the ROB again depending on the decision by the HLWD on the improvement. Kurt Deter said that what the HLWD does should not affect the ROB. Sherry Haley stated that the board needed to make a decision to move this from the current stalemate. In order to overturn the way the ROB was figured, they would need to make reasonable findings that explained their reasoning.

The commissioners unanimously approved a motion to deny the request for a new ROB based on the fact that there is no reason to change it, they approve the methodology used, and that there is no reason that it is not correct.

*Jackson County Judicial Ditch (JD) 3*

On December 7, 2017, the Jackson County Commissioners met regarding the request for ROB for Jackson County JD 3. Kurt Deter explained that the county may want to explore the transfer of authority for this system to the HLWD according to Minnesota Statutes 103D.625. Transfer of authority would alleviate the confusion that has occurred with the Jackson CD 3 proceedings.

Bruce Sellers stated that the petition for improvement is before the HLWD board. For expediency, a request for ROB was made to the county. The meeting was opened for public comment, no comments were made.

Jackson County Attorney Sherry Haley stated that she would like more time to review the statute and meet with county staff before making a recommendation. The Jackson County

Commissioners unanimously voted to table the request for ROB and asked county staff to come back with a recommendation.

*Jackson County Drainage Crew Tile Repair*

On December 7, 2017, Jan Voit asked Dave Macek to provide a summary of Jackson County's tile repair process. Tile repairs are done according to Minnesota Statutes 103E.701 on drainage systems.

103E.701 REPAIRS. Subdivision 1. Definition. The term "repair," as used in this section, means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including resloping of ditches and leveling of spoil banks if necessary to prevent further deterioration, realignment to original construction if necessary to restore the effectiveness of the drainage system, and routine operations that may be required to remove obstructions and maintain the efficiency of the drainage system.

"Repair" also includes:

- (1) incidental straightening of a tile system resulting from the tile-laying technology used to replace tiles; and
- (2) replacement of tiles with the next larger size that is readily available, if the original size is not readily available.

While it may make sense to combine the three lines into one to fix the problem, it would require an improvement project. That must be done by the landowner.

*Jackson County JD 14*

Ted Bretzman, the main petitioner for JD 14, contacted Jan Voit to determine if a date had been set for the preliminary hearing for this ditch system. The preliminary hearing will be held on January 25, 2018 at 10:00 a.m. The order setting preliminary hearing was drafted on December 6, 2017. It was sent to Mike Tow for review. This item will be included on the agenda for the December board meeting.

**6. Adjourn**

A motion to adjourn was made by Mona Henkels and seconded by Jerry Christopherson. The motion passed unanimously.

Respectfully Submitted

Allen Jensen

Secretary