

SAND HILL RIVER WATERSHED DISTRICT
VESLEDAHL WETLAND BANKING
INFORMATIONAL MEETING
October 26, 2017

1. Attendance:

Sand Hill River Watershed District Administrator Daniel Wilkens called the Vesledahl Wetland Mitigation informational meeting to order at 7:00 PM on October 26 at the Winger Community Center. SHRWD managers present included Phillip Swenson. District staff members present included April Swenby – Administrative Assistant. Acting district engineer Jeff Langan – Houston Engineering was present. Agencies represented were: Dave Weirens – Board of Soil and Water Resources, Jim Curran - MnDOT, Rod Gunderson – MnDOT, and Emily Hutchinson – MN DNR, Joan Lee and Gerald Jacobson- Polk County Commissioners. Others in attendance were Ron Lucken, Dan Vesledahl, Dan Espeseth, Al Bauer, and LeRoy Johnson. Others were present but did not sign in.

2. Daniel Wilkens, Sand Hill Watershed Administrator welcomed everyone. The minutes were reviewed, and Wilkens called for changes or revisions. The following change was noted:

Last month BWSR asked for a change in September’s minutes referencing plastic pipe stating that was an error and verified that there was no plastic pipe used in the project on the water control structures. Emily Hutchinson verified with Terry Wolfe that plastic pipe was used during the project. Dan Vesledahl invited Weirens on a tour to show him where the plastic pipe was located and verified that he too, saw plastic pipe.

3. BWSR Report

Dave Weirens – BWSR Representative, presented a follow up on last month’s meeting and the information that has been gathered since.

1. Land Sale: Weirens stated that the sale of the land would be at least one year out. Before the land could be sold, there is preliminary work to do including updating easements, legal work and appraisals. It was confirmed that there are not any pre-disposed offers for the land. The selling of the land will follow MN Statute 161.44.

Dan Vesledahl and Weirens conversed about the idea of obtaining appraisals before proper agreements/easements are finished regarding maintenance. Weirens did not feel that would affect the appraisal of the land. Vesledahl disagreed and felt strongly that additional easements/restrictions/or agreements pertaining to the land would affect the value and encouraged that upstream agreements be finalized before any appraisals. Dave Weirens felt that there was no need demonstrated and Vesledahl confirmed there is a definite need and explained “that is why there are people attending these meetings – to demonstrate the significant need.”

2. Maintenance Intentions: Weirens confirmed that the state is currently working on producing a document highlighting the intent of the wetland bank maintenance. Weirens reminded the audience that DNR management goals are different than BWSR management goals. Last month’s meeting, questions arose regarding the intent of the project at its origination and what the maintenance goals were.

D. Vesledahl presented newspaper articles that he feels proves the original intent of the MN DNR and BWSR representatives at the time of construction. He also stated that they verify what the landowners were promised at the time of evaluation and construction. An article from January 1999 highlighted quotes from Tom Wenzel - BWSR who confirmed that it was his job to make sure there were no adverse impacts off the site and stated an effort would be made to do as much as possible for flood control. According to the article, landowners at this time asked BWSR to put something “in writing” that would verify their promises of no adverse impacts outside the project area and Wenzel stated that BWSR would be subject to a lawsuit if they caused damages to neighboring landowners. Another article was distributed quoting a letter dated August 26 from the Polk County Board to Karen Bedeau dictating the following statement: “Any ditch plug, and/or impounding water will not affect any neighbor’s property, field crossings driveways, fence lines or township roads. Any road work or drainage systems can and will be

maintained as needed.” A third article presented highlighted quotes from Tom Wenzel who stated that there would not be any impact on area roads, adjacent lands, private ditches or a need for flood control off the site. He was quoted stating “when we do run into any of those problems, it is my job to fix them. We do not want to have any impact on lands off the site. We can’t have impact off the site. We aren’t allowed to.”

D. Vesledahl stated that these articles prove the intent of the project and its impact on surrounding lands. Weirens argued that these statements can be taken multiple ways. Vesledahl disagreed, stating that these articles are not subject to interpretation and statements like “can’t have any impact off site” are not subject to misinterpretation. He also stated that these articles highlight the concern of the landowners at the projects origination and verify that the project was “sold” to local landowners under false pretenses. The landowners are now calling on MnDot and BWSR to keep their word that they promised at the beginning.

Weirens reiterated that there is no legal responsibility for BWSR to maintain these ditches, but confirmed that as the owners they will allow neighbors to do maintenance on the project. Dan Vesledahl expressed concern for a verbal arrangement such as this, for fear new owners in the future may not allow passage to maintain the ditch. Vesledahl suggested obtaining a permanent written document, agreement or easement that would allow upstream landowners the rights to passage for drainage maintenance. Jim Curran didn’t believe it was lawful to create an easement like that, but would review with his legal team what could be done and what options there are.

3. County Road 39 – Weirens stated that BWSR and Polk County entered into an agreement in the year 2000 that allowed BWSR to back water up in the right of way and receive wetland credits for it. Joan Lee verified with Rich Sanders that the wetland credits were given to Polk County. Al Bauer questioned why Polk County would ever accept using a road for a dike. Jerry Jacobson could not answer that.

D. Vesledahl asked if permission was given to use the township road as a berm and obstruct the township road ditch with cattails. LeRoy Johnson confirmed that he was told that the Township did not give permission. It was suggested by some audience members that if permission was not given, an attorney would be the next step.

Dave Weirens was unaware of this and will further research if the Township received credits and if permission was given.

4. Seepage issue: Weirens and Dan Vesledahl were scheduled to tour the area today, but due to bad weather the tour has been rescheduled for tomorrow.
5. LeRoy Johnson: Weirens suggests that installing a tile line is an option, but would like to talk to Johnson after the meeting to discuss alternative options privately.
6. Gregory Basargin site: Jim Curran toured the site two times since the September meeting and verified that it is overtaken with cattails. MnDot can explore cleaning cattails and determine if there is a blockage. Although Mr. Basargin was not available to confirm, it is believed that the owner thinks if the ditch was cleaned water would flow.

The conversation began to shift with questions regarding the \$30,000 that is in the fund and what happens to that money if the land is sold and a legal ditch system isn’t formed. Dan Wilkens stated that the original agreement stated that \$21,300 started the fund and the interest made off those funds would be used for maintenance (which now is totaling nearly \$30,000). BWSR recently agreed to allow these funds to be used towards establishing a legal ditch system. Dan Vesledahl pointed out that an agreement like that further verifies the original intent of maintenance on the project. Dave Weirens stated that regardless of intent, there is still not enough money to do the maintenance required and the MN DNR is no longer a part of the equation. MnDOT, BWSR, and DNR all agree that establishing a legal system is the only way to go to assure future maintenance. The landowners called for BWSR to hold the MnDOT/DNR accountable for holding up their end of the agreement.

Vesledahl presented drone footage of the area showing the agencies the overgrowth of trees and cattails in the drainage ditch from 300 ft. in the air. The footage will be placed on the Sand Hill River Watershed District web-site.

Weirens presented three options to proceed:

1. Create a legal ditch system using the nearly \$30,000 currently in the fund to help establish a legal ditch system that will provide permanent drainage maintenance. The landowners present expressed discouragement because MnDOT would not sign the petition to proceed with a legal ditch system, putting the landowners at a disadvantage of obtaining the 60% signature requirement set by MN Statute. Wilkens will research the landowners to determine the feasibility of obtaining 60% signatures without the states support and report his findings to Vesledahl.
 2. Explore the option of developing permanent agreement options that would allow upstream landowners right of passage to maintain the ditch system. D. Vesledahl expressed interest in this option and suggested this option was what landowners agreed to in the initial stages of the project's origination.
 3. Do more investigations on the vegetative state of the ditch system flowing through the project area.
4. **Adjournment:** Next meeting is scheduled for Thursday, **January 18, 2018 at 7:00 PM at the Winger Community Center.**

Respectfully Submitted: April Swenby – Administrative Assistant