

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
LOWER LEVEL BOARD ROOM
ST. PAUL, MN 55155
WEDNESDAY, JANUARY 22, 2020**

BOARD MEMBERS PRESENT:

Jill Crafton, Jack Ditmore, Kathryn Kelly, Rich Sve , Sarah Strommen, DNR; Tom Loveall, Nathan Redalen, Tom Schulz, Thom Peterson, MDA; Steve Sunderland, Gerald Van Amburg, Joe Collins, Harvey Kruger, Paige Winebarger, Joel Larson, University of Minnesota Extension; Chris Elvrum, MDH; Neil Peterson, Katrina Kessler, MPCA, Andrea Date, Todd Holman

BOARD MEMBERS ABSENT:

STAFF PRESENT:

John Jaschke, Angie Becker Kudelka, Rachel Mueller, Kevin Bigalke, Tom Gile, Travis Germundson, Dan Shaw, Marcey Westrick, Karli Tyma, Sharon Doucette, Dale Krystosek, Dave Weirens

OTHERS PRESENT:

Jeff Berg, MDA
Emily Javens, MAWD

Chair Gerald VanAmburg called the meeting to order at 8:34 AM

PLEDGE OF ALLEGIANCE

20-01 **ADOPTION OF AGENDA** - Moved by Neil Peterson, seconded by Kathryn Kelly, to adopt the agenda as presented. ***Motion passed on a voice vote.***

20-02 **MINUTES OF DECEMBER 18, 2019 BOARD MEETING** – Moved by Harvey Kruger, seconded by Chris Elvrum, to approve the minutes of December 18, 2019, as amended. ***Motion passed on a voice vote.***

PUBLIC ACCESS FORUM

No members of the public provided comments to the board.

INTRODUCTION OF NEW STAFF

- Tara Kline, Conservation Technician

Chair Van Amburg and the board welcomed Tara to BWSR!

CONFLICT OF INTEREST DECLARATION

Chair Van Amburg read the statement:

“A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests, and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business. Any member who declares an actual conflict of interest must not vote on that agenda item. All actual, potential, and perceived conflicts of interest will be announced to the board by staff before any vote.”

REPORTS

Chair & Administrative Advisory Committee – Chair Gerald Van Amburg reported they have not met.

Attended EQB subcommittee last month. Discussion regarding the environmental review process particularly about ecosystem functions and health. Sarah Strommen who also attended, stated EQB recently formed a subcommittee to look at environmental review implementation. The subcommittee is meeting again this afternoon to follow-up from the public input meeting last month and discuss strategies with potential ways to incorporate climate change.

Chair Van Amburg attended the Red River Basin Commission conference held last week along with others from the board. Also went to Wheaton and listened to the presentation at the public hearing of the Bois de Sioux Watershed District, they are asking to make an amendment to their plan to include a Water Management District.

Audit and Oversight Committee – Chair Gerald Van Amburg reported they met yesterday afternoon to look at PRAP Report that is due to go to the Legislature and will be presented at the meeting today.

Executive Director’s Report - John Jaschke also attended the Red River Basin Commission meeting and stated it’s an important organization that allows us to do work across boundaries.

There have been a number of meetings and conference types of events. Discovery Farms had a first ever conference explaining work they've accomplished and the results of their data collection analysis on small scale fields. There was an interagency meeting held yesterday on drinking water more people paying attention to the challenges. Governor put out his proposed bonding package.

The day-of packet was reviewed with the Board, which included Snapshots along with a Lawns to Legumes article, an updated BWSR staff listing, an updated organizational chart, supporting and updated board documents, also included was a letter sent to the Minnesota Association of Watershed Districts regarding Metropolitan Watershed-Based Implementation Funding.

Dispute Resolution and Compliance Report – Travis Germundson reported that there are currently six appeals pending. All the appeals involve the Wetland Conservation Act. There have been three new appeals filed since the last Board Meeting.

Appeal of a WCA boundary type decision in Waseca County. The appeal regards the approval of wetland boundary type decision. Upon receipt it was immediately withdrawn and dismissed.

Appeal of a WCA restoration order in Olmsted County. The appeal regards the placement of fill in a floodplain wetland associated with the operation of a sand and gravel mine. *No decision has been made on the appeal.*

Appeal of a WCA replacement plan decision in Hennepin County. The appeal regards the denial of a replacement plan application associated with wetland impacts described in a restoration order. The restoration order was appealed and placed in abeyance until there is a final decision on the wetland application. No decision has been made on the appeal.

Appeal of a wetland conservation exemption decision in Kandiyohi county. Appeal has been withdrawn and case dismissed.

Buffer Compliance Status. BWSR has received notifications of noncompliance from various SWCD on 54 parcels from 12 counties. BWSR issued 26 corrective action notices and have not issued an administrative penalty order. Statewide, 20 counties are fully compliant and 44 counties have enforcement cases in progress. Of those counties there has been 642 correct actions notices issued and 28 administrative penalty orders that are active. Of those actions being tracked, 537 have been resolved.

Grants Program & Policy Committee - Steve Sunderland reported grants committee met and will have action items on agenda for today.

RIM Reserve Committee – Tom Loveall reported they met and have a recommendation for the board today.

Water Management & Strategic Planning Committee - Jack Ditmore reported the committee met yesterday afternoon where they received an update from staff, reviewed progress, and where we're going in the next couple years in regard to the 2017 Strategic Plan. The Strategic Plan assessment will be emailed to board members.

Wetland Conservation Committee - Tom Schulz reported they have not met. Staff are working on the 404 Assumption and will have a report in the future.

Buffers, Soils & Drainage Committee - Kathryn Kelly reported they have not met.

Drainage Work Group (DWG) - Tom Loveall and Tom Gile stated the January meeting was cancelled and will have a potential gathering this spring. Al Kean is working on a document for the Drainage Work Group to take a look at Understanding Minnesota Public Drainage Law.

AGENCY REPORTS

Minnesota Department of Agriculture – Thom Petersen reported they released their updated maps for Groundwater Protection Rule and will take effect this fall. He also attended the Red River Basin Commission.

Minnesota Department of Health – Chris Elvrum reported the Clean Water Fund Performance Report will be published in the next couple weeks and will be available on the PCA website. Also stated the Clean Water Council is working on a Strategic Plan.

Minnesota Department of Natural Resources – Sarah Strommen reported that there are a few regulatory projects in the works. There was a recent Court of Appeals decision on PolyMet, the DNR is still reviewing the decision. The DNR is continuing their work on the Line 3 license and permit applications. Sarah stated they remain concerned about spring flooding and are having some internal conversations on how to be prepared and how to help others be prepared for spring. Friday is the annual DNR Roundtable in Bloomington where they will discuss fisheries, wildlife, ecological and water resource issues with stakeholders and divisions.

Minnesota Extension – No report was provided.

Minnesota Pollution Control Agency – Katrina Kessler reported they are also involved with PolyMet. Stated the Municipal Separate Storm Sewer (MS4) general permit came off public notice. Staff are going through the comments, received requests for contested case hearings. There are new requirements related to stormwater – meeting waste load allocations and total maximum daily loads as well as tracking chloride.

House and Environmental Committee met in Bemidji. PCA gave presentations on impaired waters, PFAS, and some proposed changes to federal regulations that impact regulatory programs.

Dark Waters is showing at the Landmark Theater in Edina. Katrina along with others will be on a panel after the movie to talk about work they've been doing related to PFAS.

PCA is part of the Great Lakes Commission where Katrina is on subcommittee that is working on identifying what we can do together related to resilience.

ADVISORY COMMENTS

Association of Minnesota Counties – No report provided.

Minnesota Association of Conservation District Employees – No report provided.

Minnesota Association of Soil & Water Conservation Districts – No report provided.

Minnesota Association of Townships – Nathan Redalen introduced their Executive Director David Hann to the board. David has been the Executive Director for the last year and half. Prior he served in the legislature as a state senator for 14 years. David stated he is looking forward to working with the board.

Minnesota Association of Watershed Districts –Emily Javens reported there was a legislative town hall meeting in Osakis. Minnesota Representatives Anderson, Franson, Heintzeman, and Poston thought it was important to hold a meeting to listen to concerns about the Sauk River Watershed District.

Natural Resources Conservation Service – No report provided.

John reported everyone signed the conflict of interest and can vote.

Chair Van Amburg recessed the meeting at 9:45 a.m. and called the meeting back to order at 10:02 a.m.

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

FY20-21 Cooperative Weed Management Area Grant Awards – Dan Shaw presented the FY20-21 Cooperative Weed Management Area Grant Awards.

The purpose of the Cooperative Weed Management Area Program is to establish strong and sustainable CWMAs across Minnesota for the collaborative and efficient control of invasive species and protection of conservation lands and natural area. In August 2019 the Board gave approval to complete and open the FY20-21 Cooperative Weed Management Area Grants RFP to grant a total of \$200,000. The application period was open from September 2, 2019, to October 7, 2019. Twenty (20) applications were received requesting a total of \$330,000. Ranking was done by the CWMA Interagency Advisory Team on November 7, 2019. The attached funding recommendations are the result of that meeting and include the recommended distribution of an additional \$28,000 of unused CWMA Program funding. Approval of the FY20-21 Cooperative Weed Management Area Grant awards is requested of the Board.

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20-03 Moved by Steve Sunderland, seconded by Jill Crafton, to approve the FY20-21 Cooperative Weed Management Area Grant Awards. ***Motion passed on a voice vote.***

FY20 Lawns to Legumes Demonstration Neighborhoods Grant Awards– Dan Shaw presented FY20 Lawns to Legumes Demonstration Neighborhoods Grant Awards.

This new grant program is funded through the Environment and Natural Resources Trust Fund (ENRTF) and is aimed at increasing the populations of rusty patched bumble bees and other at-risk pollinators through the establishment of residential pollinator habitat within neighborhoods in important pollinator corridors/pathways. In October 2019 the Board authorized staff to complete and open the FY20 Lawns to Legumes Demonstration Neighborhoods RFP to grant a total of \$450,000. The application period was open from December 3, 2019 to January 10, 2020. Ranking was done by an Interagency Team on January 16, 2019. The attached funding recommendations are the result of that meeting. Approval of the FY20 Lawns to Legumes Demonstration Neighborhoods Grant awards is requested of the Board.

Jill Crafton asked if there were any city ordinances that might have barriers from implementing? Dan stated that every city has different ordinances and some are more pollinator friendly than others. There was a sample permit developed that cities can use if they don't want to change their ordinances. Also have a document with sample ordinances they can use too.

Tom Loveall asked how long is the requirement to have the pollinator habitat, is there a standard and do we check up on it? Dan Shaw stated demonstration neighborhood have a 5-year requirement and Individual projects have a 3-year requirement. Coaching will be provided for everyone that receives money for those programs and will link them with people who will guide them to be successful.

John Jaschke thanked Dan Shaw and Tara Kline for their work.

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20-04 Moved by Kathryn Kelly, seconded by Paige Winebarger, to approve the presented FY20 Lawns to Legumes Demonstration Neighborhoods Grant Awards. **Motion passed on a voice vote.**

FY 2020 Clean Water Fund Competitive Grant Award– Marcey Westrick presented FY 2020 Clean Water Fund Competitive Grant Award.

The purpose of this agenda item is to allocate FY20 Clean Water Competitive Grants. On June 26, 2019, the Board authorized staff to distribute and promote a request for proposals (RFP) for eligible local governments to apply for Clean Water Fund Competitive Grants in three program categories: Projects and Practices, Projects and Practices Drinking Water Subgrant Program and Multipurpose Drainage Management (Board order #19-32).

Applications for the FY2020 Clean Water Fund Competitive Grants were accepted from July 1 through September 9, 2019. Local governments submitted 104 applications requesting \$30,145,939 in Clean Water Funds. BWSR Clean Water staff conducted multiple processes to review and score applications and involved staff of other agencies to develop the proposed recommendations for grant awards. The BWSR Senior Management Team reviewed the recommendations on December 4th and made recommendations to the Grants Program and Policy Committee. The Grants Program and Policy Committee reviewed recommendations on December 18, 2019 and made a recommendation to the full Board. A draft Order is attached based on the recommendation of the Grants Program and Policy Committee.

In the board order, item number three in the Order section, Jack Ditmore proposed to remove the words “included in” and to continue numbering.

Chris Elvrum stated that this is the first-time a drinking water category has been utilized. Enabled by last legislation session where they carved out 20% for drinking water projects. Appreciates that Marcey and staff have been working with MDA staff. Happy to see funds are being used for drinking water projects and they are working together. Thom Peterson added that he thinks it’s really positive.

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20-05 Moved by Tom Schulz, moved by Steve Sunderland as amended, seconded by Chris Elvrum, to approve the FY 2020 Clean Water Fund Competitive Grant Award as amended. **Motion passed on a voice vote.**

RIM Reserve Committee

City of Luverne RIM Easement Alteration (67-01-95-01) – Karli Tyma and Sharon Doucette presented City of Luverne RIM Easement Alteration (67-01-95-01).

BWSR acquired the 53.1-acre perpetual RIM conservation easement in Rock County on November 17, 1997. The land including the RIM easement was purchased by the City of Luverne on 12/31/2018.

The City of Luverne is currently undergoing a \$14,281,000 Waste Water Treatment Plant expansion project to allow for long term growth over the next 50 years. In 2013, TKDA performed a Wastewater Treatment Plant Capital Improvement Plan which recommended both near-term and long-term improvements to the public infrastructure. The proposed near-term improvements can be constructed on city owned property but will encroach on the west boundary of the easement and requires 2.5 acres of the easement area to be released to provide for odor control and security buffer. To avoid placing new wastewater treatment processes closer to the Rock River, the long-term improvements require additional land within the easement area (1.8 acres). A total of 4.3 acres of land within the easement is

needed to account for both near-term and long-term improvements (see attached map). The City believes that the public interest is best served by allowing the infrastructure to expand in its current location and allow for future growth.

The City is also requesting an additional 1.0 acre be released from the RIM easement to accommodate the final phase of the Luverne Loop Project. Three of the four phases have been constructed and funded between 2015-2020. The last segment of trail to be completed lies within the existing RIM easement area. This final phase of the trail project will provide a critical connection to the Blue Mounds Trail, creating a continuous 13-mile+ experience for trail users and tourists. The Luverne Loop and Blue Mounds Trail combined have received designation as a trail of 'Regional Significance' by the Greater Minnesota Regional Parks and Trails Commission. There are no alternative routes that are feasible in this area because of land constraints, drainage issues, a railroad crossing, the Rock River, and property ownership. The final phase of the loop will require a 30-foot wide trail corridor to be released from the easement along the west side of the property.

In addition to the required \$500 processing fee, the City has agreed to pay \$18,000 per acre for the release of 5.3 acres of the easement required for the proposed infrastructure projects, for a total of \$95,400. This meets the Easement Alteration Policy requirement of payment at 2 times the current RIM rate per acre and includes funds to replace state funds spent to restore vegetative cover on the areas to be released.

BWSR staff recommends approval of this easement alteration request and believes the City has demonstrated how the public interest will be better served. The City has received support of the alteration from the Rock County SWCD Board as well as the DNR Area Wildlife Manager, has provided all requested materials and has agreed to pay all associated fees required by the Easement Alteration Policy for public infrastructure projects.

Tom Loveall stated they had some thorough conversations. City is open to posting a sign to show land was purchased from public money in the RIM program.

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20-06 Moved by Harvey Kruger, seconded by Paige Winebarger, to approve the City of Luverne RIM Easement Alteration (67-01-95-01). ***Motion passed on a voice vote.***

Audit and Oversight Committee

2019 Performance Review and Assistance Program Legislative Report – Dale Krystosek presented 2019 Performance Review and Assistance Program Legislative Report.

BWSR staff have prepared the 2019 Performance Review and Assistance Program (PRAP) Legislative Report which presents a summary of PRAP reviews and activities conducted in 2019. The report also contains a list of planned program objectives including three new items for 2020: Utilize new Performance Standards Checklists for counties, soil and water conservation districts, watershed districts and watershed management organizations, evaluate and develop metrics for tracking LGU implementation of the Buffer Program, work with BWSR Water Planning Team to develop protocol for tracking, assessment, evaluation and reporting for One Watershed, One Plans.

Jill Crafton noted that we are phasing out the biannual budgets requests and that they are still included as requirements. Dale clarified that those are for 2019 and will be pulled out.

Joe Collins commended the staff for their work.

Jill Crafton also thanked staff for their work.

20-07 Moved by Neil Peterson, seconded by Jill Crafton, to approve the 2019 Performance Review and Assistance Program Legislative Report. ***Motion passed on a voice vote.***

NEW BUSINESS

Vice Chair Election – John Jaschke presented the Vice Chair Election.

According to bylaws, the Vice-Chair will be elected to a two-year term by the members of the Board. They will be elected by majority vote at the first regularly scheduled meeting of every even calendar year.

20-08 Jill Crafton nominated Tom Schulz and seconded by Nathan Redalen. Nathan Redalen moved that the nomination period be closed and that Tom Schulz be nominated unanimously. That motion was seconded by Chris Elvrum and passed. Tom Schulz will continue to serve as the vice chair of the BWSR Board.

UPCOMING MEETINGS

- Next BWSR Meeting is scheduled for 9:00 AM, March 25, 2020 in St. Paul.

Chair VanAmburg adjourned the meeting at 10:55 a.m.

Respectfully submitted,

Gerald Van Amburg
Chair