

Public Comment and Response

Sauk River Watershed District (SRWD) Board Meeting

Meeting Date: Tuesday, December 17th, 2019

Further questions may be directed to the SRWD Staff:

320.352.2231

srwd@srwdmn.org

524 4th Street South

Sauk Centre, MN 56378

Comments have been summarized to capture the main points from each landowner. If there are concerns or questions regarding the information in this document please contact the SRWD office.

- 1) Paul Hartmann
 - a) Thank you for increasing our taxes. What the SRWD is doing is legal, but the question is: is it right?
 - b) 100% against the building, it is not fiscally responsible.
- 2) Merle Felling of Felling Trailers
 - a) Feels likewise to Mr. Hartman. Do not need a \$2 million building for six staff, could buy and existing building or even build for cheaper than that.
- 3) Angela Jacobson on behalf of the City of Osakis
 - a) In the past few meetings the SRWD Board has mentioned looking at other assessment methods, please consider that moving forward.
 - b) The City of Osakis has three holding ponds that they maintain. The City is doing their part for water quality and it is unfair for the residents of the City to have assessments that are as much as some of the lakeshore residents.
 - c) If the SRWD continues to maintain the ponds, please look at the cost.
- 4) Terry Hetland
 - a) Will be assessed 10 times through the various entities also assessed for the JD2 Sediment Pond maintenance.
 - b) The sediment ponds are not needed because there are 170 acres of cattails downstream of the ponds.
 - c) Totally opposed to the new building, could be much more responsible.
- 5) David Zerr
 - a) Fixed income concerns. Due to the JD2 Sediment Pond assessments will need to re-evaluate his finances.
 - b) Questions regarding the Crooked Lake Project:
 - i) With the easement, what are the property requirements and or restrictions?

- ii) Answer: Yes – there are requirements and restrictions, but they are tailor-made to the property and the projects within the easement area. Some of the terms of the contracts may include recreational hunting, field road use, etc. Specific questions regarding the terms of a particular easement may be directed to the SRWD office.
 - i) Is the landowner still able to hay the property?
 - (1) Answer: As long as the conditions of the contract are followed, yes.
 - ii) If so, does the SRWD receive revenue from that?
 - (1) Answer: No.
- 6) Tom *Ettle*? Freeport Landowner – unsure if name is correct.
 - a) Ditches were cleaned out in 1986, now landowners are being assessed and unfairly taxed for ditch maintenance.
 - b) \$2 million building – don't be greedy, you don't need bigger and better.
- 7) Matt Winters
 - a) Based on the two buildings that he has built the SRWD building will be 5 times the going rate of building costs. Need to use street smarts, grants don't fall out of the sky.
 - b) Knows of a \$300,000 building for sale that the SRWD could buy and renovate, building is bigger than the new SRWD building.
- 8) Charles Nienaber
 - a) Would like to know more about the assessment process for ditches.
 - i) Answer: The SRWD Board, as the Drainage Authority (DA) for several public drainage systems established through Minnesota Statutes 103E, is charged with maintaining these systems for those lands that use them to convey water off of said lands. Those lands that contribute to the system are assigned a percentage through the Determination of Benefits process. Annually in August, the Drainage Authority reviews and sets assessments for the systems they manage. This is done at a public meeting/hearing and all are welcome to attend and participate.
 - b) Would also like to have input on who is being hired as contractors.
 - i) Answer: Depending on the size of the project/work to be done on the system, the DA may be required by law to advertise for bids. For projects larger than \$175K estimated cost, this process is required. For smaller projects, the DA usually solicits for estimates and usually hires the best qualified and most reasonable price contractor. (Not necessarily always the cheapest). Contractors are required to have insurance. The public is most certainly welcome to make suggestions for contractors to do the work. The DA will consider those suggestions.
- 9) Bob Pogatchnik
 - a) CD26 landowner.
 - b) The second assessment for CD26 was a surprise, would like this information relayed to the landowners sooner in the future.
 - c) This has been the worst year for flooding that he has seen on his property.
 - d) SRWD needs to stop the flooding/improve water storage.
 - e) Strongly opposes the new building, should use a building that already exists.
- 10) Benedict Fleischhacker

- a) On a fixed income, another big tax bill received for ditch.
- b) Has cleaned out the ditch himself.
- c) Doesn't plan on paying the last assessment he received.
- d) Opposes the building.

11) Alicia Elfering

- a) Current amount of taxes is a concern, school levies, SRWD, etc.
- b) Cannot afford to pay the SRWD assessments/taxes.
- c) \$3,000 increase in her taxes.

12) Representative Paul Anderson

- a) Pleased to see respect on both sides, board listening to the constituents.
- b) Encourages all of us to work together.
- c) Has received more calls regarding the SRWD than he did about the building of the Vikings stadium.
- d) Encourages listening to take place on both sides of this situation, thank you.

13) Randy Klassen

- a) CD26 landowner.
- b) Would like the definition of "benefit" in relation to drainage systems.
 - i) Answer: I refer you to Minnesota Statutes 103E.315 (accessible online <https://www.revisor.mn.gov/statutes/cite/103E>) where the law describes benefits. It is a method outlined in the statute, used to define what percentage of the construction and maintenance costs, each 40 acre parcel within the assessment area would pay.
- c) Does not think that enough people were included in the CD26 benefit area.
 - i) Answer: I refer you to Minnesota Statutes 103E.351 (accessible online <https://www.revisor.mn.gov/statutes/cite/103E>) for the process that outlines Redetermination of Benefits. This process can be started by either the Drainage Authority or a petition of the landowners. The petition requires signatures from "26% of the owners of property or owners of 26% of the property that is benefitted or damaged". There is an avenue where it can be done again to include lands may benefit but are not included. The concern is the cost to do the process. This cost is assessed back to the system. SCD #26 recently received a redetermination.
- d) Would like to know if a committee was formed (for CD26?).
 - i) Answer: No ditch committee has been formed for SCD #26. The Drainage Authority has appointed a ditch inspector. See Minnesota Statutes 103E.701 (<https://www.revisor.mn.gov/statutes/cite/103E>).
- e) Opposed to the building.

14) Tim Linn

- a) Freeport/CD26 landowner
- b) Against the building but commented on the small building.

c) Has a trail camera on his property on CD26. He has pictures of two people in yellow vests walking on his property about a month ago. He is wondering if this was SRWD staff or consultants working with the SRWD?

i) Answer: I am not sure who this might have been but it was determined during the December 2019 SRWD Board meeting that it was not the SRWD Staff. For future reference, I refer you to Minnesota Statutes 103E.061 (<https://www.revisor.mn.gov/statutes/cite/103E>) Right of Entry as well as 103D.335, subdivisions 8 and 14. The Drainage Authority can enter lands for purposes described in these statutes, provided that if there are any damages due to that entry, they are responsible for the repair of those damages. As the SRWD Ditch Inspector, I do try to notify landowners if I need or plan to enter their property for inspection work.

15) Pat Kramer

- a) There is a trust issue here.
- b) Has lived on lake over 40 years, more and more spending is occurring.
- c) Lake association wants to do additional projects.
- d) Concerned that if an open checkbook is given [to SRWD? Lake association?] it will not be handled responsibly.

16) Gene Kramer

- a) Easements in the Crooked Lake area – why not use the easement money for the JD2 Sediment Pond maintenance?
 - i) Answer: The money that was used for the Crooked Lake easements was part of a State Revolving Loan with the Minnesota Pollution Control Agency. As with all loans, these funds will need to be paid back. The way the JD2 Sediment Pond project was established provided an assessment area to fund the project maintenance, and therefore, that was the process used to pay for the project. The SRWD Board of Managers has received a large amount of feedback regarding this, and is discussing other options for future assessments.
- b) Opposed to the building.

17) Representative Mary Franson

- a) This meeting is a lot calmer than the last one, glad to see the SRWD Board listening to constituents.
- b) Concerns regarding senior citizens and fixed incomes, can't afford the increases in taxes.
- c) Farm economy is down right now.
- d) Asked about responding to those with questions, asked if responses could be posted to website for others to read.

18) Scott Maus

- a) Why do we have the SRWD/a watershed district when we already have SWCD's?
 - i) Answer: Watershed districts were developed with special statutory authorities to complete large scale projects that an SWCD may not be able to fund, or may be limited to implement based on the differences in statutes for watersheds (MN

Statute 103D - <https://www.revisor.mn.gov/statutes/cite/103D>) and SWCDs (MN Statute 103C - <https://www.revisor.mn.gov/statutes/cite/103C>) .

- b) Why have an entity that can tax when everyone works with the SWCD's?
- i) Answer: SWCD's were developed to focus on conservation at an individual landowner scale. Watershed districts were developed to focus on larger scale issues such as:

- **MN State Statute 103.201** (<https://www.revisor.mn.gov/statutes/cite/103D.201>)

- **Subdivision 1. General purposes.**

To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.

- **Subd. 2. Specific purposes.**

A watershed district may be established for any of the following purposes:

(1) to control or alleviate damage from floodwaters;

(2) to improve stream channels for drainage, navigation, and any other public purpose;

(3) to reclaim or fill wet and overflowed land;

(4) to provide a water supply for irrigation;

(5) to regulate the flow of streams and conserve the streams' water;

(6) to divert or change all or part of watercourses;

(7) to provide or conserve water supply for domestic, industrial, recreational, agricultural, or other public use;

(8) to provide for sanitation and public health, and regulate the use of streams, ditches, or watercourses to dispose of waste;

(9) to repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;

(10) to control or alleviate soil erosion and siltation of watercourses or water basins;

(11) to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use;

(12) to provide for hydroelectric power generation;

(13) to protect or enhance the water quality in watercourses or water basins; and

(14) to provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes.

- i) Additional Information: Along with these larger-scale tasks watersheds were developed to address, unique statutory abilities, such as the ability to tax, was also granted to watershed districts.
- d) Doesn't like that an agency can tax him without him having a say.
 - i) Answer: We would encourage you to join our Citizen Advisory Committee. It would provide an opportunity for you to learn about activities and projects the SRWD is working on, provide input on those items, and provide feedback that you are hearing from other concerned citizens. Please contact our office if you are interested. 320.352.2231

19) Char Mayers

- a) Freeport landowner
- b) Concerns regarding existing stress on farmers, suicide rates – assessments cause more worry and stress.
- c) The new building is totally ridiculous.

20) Joe Johnson

- a) Opposed to the new building.
- b) Concerns about the curly leaf pond weed and lake association meeting information.
- c) Consider the heat and lighting costs for the new building – that will be an added expense, more taxpayer money, should be thinking of energy conservation.

21) Marvin Mensen

- a) Pond is going up in cost. He was in civil engineering and there is no way that the proposed repairs to the culvert will cost that much.
- b) New office building is a waste of money.

22) Nathan Stelling

- a) Townships also receive flack from assessments.

23) David Drager – Little Sauk Township Chairperson

- a) Asked about the Sauk Centre project, did not know anything about it.
 - i) During the meeting Administrator Henderson provided some information regarding that project. The City of Sauk Centre petitioned the SRWD for assistance with that project. A public hearing was published in the newspapers and the hearing received no public comment.

24) Holly Blume

- a) Her dad served on the SRWD Board and tried to stand up for farmers, feels that he was dealing with a lot of corruption.

25) Don Schmidt

- a) Why are assessments so out of line/unfair?
 - i) Answer: This is an opinion. The JD #2 Sediment Pond Project was established as required by Minnesota Statutes 103D.701 through 103D.745. The assessment area was established in 2004-05 when the project was established. Public hearings were conducted in accordance with the statute. Through that process, the assessment area and percentages were established in what was considered fair. That being said,

if something has changed since then, there is potential to change the distribution of costs going forward.

b) Shouldn't all landowners in the watershed be paying?

i) Answer: This is one option that the SRWD Board of Managers is considering.

c) Against the building.

26) Alicia Elfering

a) Not benefitting from the ditch, paying more than those directly affected.

27) Paul Hartmann

a) Need to work on a better assessment policy

28) Senator Jeff Howe

a) What are the options for those who are upset with their assessments?

i) Answer: At this stage of the assessment process (as of December 2019), the options are for landowners to pay their assessments (partial or in full) by December 31st, 2019, or let the assessments go to their property tax statements for the indicated number of years (based on the project – JD2 Sediment Pond assessments will be divided across a 10-year time frame, CD26 assessments will be divided across a 3-year time frame).

(1) For future assessments: We encourage landowner participation at all stages of a project. Involvement in our Citizen Advisory Committee allows landowners an opportunity to hear about projects in the development stages, and provide input in the early phases of development. Landowners may also request to be on the email list to receive our monthly board meeting agendas to remain up-to-date on upcoming projects and discussions. If a project of interest is on the agenda, we encourage meeting attendance and calling/meeting with staff to answer any questions as these projects are discussed. Finally, look for public notices in the newspapers within the watershed boundary for updates.

29) Merle Felling

a) Has a system set up to collect roofwater to a 36" tile that goes to sediment ponds before the water would get to the river....not understand how the assessment works.

i) Upon further discussion with this landowner, it was determined that this was a project with the City and follow-up should occur with the City Staff if needed.

30) Ben Fleischhacker

a) Has a \$5,000 assessment over the next few years, doesn't think it is quite right.

31) Randy Klassen

a) Has water quality improved?

i) Answer: While this question may feel simple, there is a lot of information involved, along with a large number of waterbodies – each with a different set of data. In regards to Lake Osakis:

(1) Total phosphorus and orthophosphorus have decreasing trends, indicating that the levels of phosphorus are improving.

- (2) Chlorophyll-a has a decreasing trend, indicating that the levels of chlorophyll-a are improving.
- (3) Secchi disk readings at the three monitoring sites have varying trendlines, making it difficult to draw an overall conclusion (one site is fairly stable, one is increasing, one is decreasing).
- (4) I would be happy to answer other specific water quality questions. Please contact Sarah at the SRWD 320.352.2231 or sarah@srwdmn.org

32) Dave Zerr

- a) Emotions take over thoughts sometimes, serving as a board member is a tough job.
- b) The way these projects are/have been presented is a problem.
- c) As taxpayers, we ask that you take personal stewardship in how your business affects us.
- d) When you make decisions, they can impact more than yourselves, the woman that mentioned suicide is right - this is a real issue and concern.

33) Bob Pogatchnik

- a) Lack of communication, surprise bill.
 - i) Answer: Regular meetings are held the third Tuesday of every month for both the Watershed District and the Drainage Authority. All approved minutes of these meetings are posted on the SRWD Website. Citizens can contact the office if they would like to be included on an email distribution of the agenda prior to each meeting. The SRWD is also looking at ways for the public to subscribe electronically to meeting information or possibly doing quarterly electronic newsletters. Citizens are encouraged to call or stop in the office if they have questions. Notices for special meetings specific to ditches are frequently mailed out to the landowners in the assessment areas of those ditches. Hearing notices are published in the local newspapers and usually discussed monthly on local radio shows at KASM and KEYL.
- b) SRWD website is very vague.
 - i) Answer: This has been acknowledged. Staff have been discussing how to make the website more user-friendly and robust.
- c) Would like an explanation of the determination of benefits.
 - i) Answer: The SRWD Board is the Drainage Authority as well, for several drainage systems established under Minnesota Statutes 103E. The statute describes the process in which it is determined how the maintenance of these systems is to be paid for. That is called "Determination of Benefits". Essentially, the Drainage Authority is required to appoint 3 dis-interested parties (known as viewers) to determine what lands should be included in the area responsible for the need for the ditch. They are also to determine how much each 40 acre parcel should be responsible for. Each landowner is then sent a "Property Owners Report" and given the opportunity to meet with the viewers to discuss their findings, point out errors if they see any, and ask questions. Property owners are also encouraged to attend the required hearings of the viewers report. Once the Drainage Authority is confident

the viewers report is correct, they will adopt it. Property owners have 30 days to appeal this decision before it becomes final. Once the viewers report is final, it then becomes the basis for which all future costs for that ditch are divided amongst the property owners for payment. I refer you to Minnesota Statutes 103E.301 through 103E.351 where the process is described in detail.

- d) Meetings should be advertised in more newspapers.
 - a. Answer: The SRWD advertises in 6 or 7 newspapers throughout the district. If there is a specific newspaper that you regularly read, let us know what it is and we can consider that one as well. The papers we post public notices in are: ***Osakis Review, Sauk Centre Herald, Melrose Beacon, Cold Spring Record, Eden Valley Watkins Voice, Paynesville Press, Albany Enterprise, St. Cloud Times.*** ***Some notices are only posted to papers in the applicable area.***
- e) Financials should be on the SRWD website.
 - i) The SRWD financial information is available at any time it is requested. The SRWD will consider this request, and is working on how and where this information could be incorporated within the website. As with any financial report, they (audits) can be complex and mis-interpreted if the reader does not fully understand what they are reading. The SRWD is required to conduct their bookkeeping in accordance with state and federal accounting standards, which can be confusing at times, to the layperson. The best way to understand the financials of the district is to ask questions about what you are seeing.

34) Ken Zimmerman

- a) Legislators are involved, attorney doesn't understand.
- b) During his daughters internship at SRWD she heard someone mention that he would be suing the SRWD, but he hadn't started the process yet.
- c) He appealed to the wrong place and had to go through a series of court appeals.

35) Bob Ritter – Supervisor for Ashley Township

- a) Communication is an issue.
- b) If what you are doing isn't working, try something else.
 - i) Answer: The SRWD is looking into a number of different ways to get accurate information to the general public (mailings, newsletters, radio, Facebook, newspaper, etc.). If you have suggestions on methods that you think would be beneficial for us to explore, please let us know. 320.352.2231

36) Manager Wolf

- a) Why are the TMDL (Total Maximum Daily Load) studies being used as a measurement tool for progress towards water quality improvements when they don't always incorporate the most recent data as the documents age?
 - i) Answer: "A TMDL is the maximum amount of a pollutant a body of water can receive without violating water quality standards, and an allocation of the amount to the pollutant's sources. The TMDL process identifies all sources of a pollutants and determines how much each source must reduce its contribution in order to meet the

standard. Once a body of water is added to the [Minnesota Impaired Waters List](#), a TMDL must be developed for it. After impaired waters are listed, the MPCA organizes them into TMDL projects. Each project may contain one or more waterbodies or segments of a waterbody. Federal and state regulations and programs also require implementation of restoration measures to meet TMDLs.” – Minnesota Pollution Control Agency (MPCA)

(1) To break this down even more, the “industry standard” in the water quality world is to utilize these documents as the tool to track progress because of the amount of time, modeling, resources, and money that are utilized to create them. Comparing reductions to current monitoring data, especially when the TMDL is several years old there is newer data available, makes sense. However, the industry standard is still to refer back to the TMDL document as a tracking tool and the basis for evaluating progress.