

MINUTES
ORANGE COUNTY SOIL & WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS
April 19, 2021

The **MEETING** was **CALLED TO ORDER** by the Chairman at 9:03 AM. Directors J. Wright, P. Ruskiewicz, K. Stegenga, P. DeBlock and G. Constable along with K. Sumner, T. Ferry and C. DeGroodt (SWCD) and A. Armlin-Sorgen (NRCS) joined remotely.

2021-4-1 Stegenga made the Motion, Ruskiewicz seconded, to approve March's Board Meeting Minutes as written. All in favor.

ACTIONS TAKEN BETWEEN MEETINGS – There were no actions between meetings other than paying some bills which are listed on the bills to be paid.

CORRESPONDENCE

- The bank statements and collateral agreements are available for review at the District office.
- The District received a letter from Senator Martucci regarding the SAM grant promised to us by Senator Metzger. This was a generic letter sent to all the entities who were on the list for SAM Grants. No information was provided in it other than he is looking into it.
- The District received a dues request from the National Association of Conservation Districts. Discussion followed. The dues request was Tabled.
- The District received an update from the New York Association of Conservation Districts. Included in it was a summary of Legislative Days, done virtually this year, and a reminder for Districts to comment on the Soil Health and Climate Resiliency bills that are before the State Senate and Assembly right now.
- Various newsletters are available for review at the District office.

FINANCIAL REPORTS – Sumner mentioned that the District received the 2021 Performance Measures Part C money this past month in the amount of \$112,874.00.

2021-4-2 DeBlock made the Motion, Constable seconded, to file March's Financial Report for audit review. All in favor.

BILLS FOR BOARD APPROVAL – There was one addition to the list of Bills for Board Approval. Late last week the District received a bill from Barton & Loguidice for the Wallkill Flood mitigation work in the amount of \$2,384.50.

2021-4-3 Wright made the Motion, DeBlock seconded, to accept the Bills to be Paid. All in favor.

There was a brief discussion on the bill for the computer updates. Sumner said the updates were overdue, and the bill was reasonable.

Grant Update Reports – The project status column is being kept up-to-date. The District is making progress on the Carbon Farming projects and the AEM Tier 4 projects. Engineering services continue to be a challenge. And for at least one of the construction projects, getting the participant to understand that we need to have the engineer approve everything is turning out to be a little bit of a challenge as well. Sumner advised this participant that if the engineer doesn't approve something, the District is not going to be able to fund it.

STAFF REPORTS

Written staff reports were emailed to Board Members prior to the Meeting for review.

C. DeGroodt (SWCD) – DeGroodt's staff report was attached to the Draft Minutes. She mentioned that she is working on a 2020 Annual Report/Newsletter and asked the Board members to send her a short bio about themselves and a photo she can use in it.

NYS Retirement Update – DeGroodt completed another training with the Employer Reporting Unit. Ferry is in their system and his payroll information is now up-to-date. At the end of this month we will begin to report payroll for the rest of the District staff.

T. Ferry (SWCD) – Ferry's staff report was attached to the Draft Minutes. He mentioned that one no-till user who is consistently a late payer, has paid his overdue bill and also pre-paid for this year's use.

Wright received a call from S. Cruz. He said that Cruz feels the Board has gotten the wrong impression of him. Cruz said he would like to start all over again and take it from there. He told Wright that hunting is only a small part of his agricultural business and that most of it is sale of birds. Wright asked the Board and District staff if they are willing to rent no-till equipment to Cruz in the future. They are, but they want it made clear to Cruz that he will be required to pay the fee to use the no-till equipment this year, as the District is no longer offering a fee waiver. Discussion followed. The District will update the No-Till User Agreement and a draft will be sent to Directors for review.

Sumner logged out of the meeting due to technical issues.

DeBlock mentioned that producers that were unable to get into CFAP 2 can now get in. Also, if you had insurance payments on some part of your crops, FSA can add that or NAP to their sales amount.

Wright asked DeBlock what the office procedures are now for the Farm Service Agency. She said producers are allowed in with an appointment.

Sumner logged back in to the meeting.

INTERAGENCY REPORTS

Armlin-Sorgen (NRCS) - NRCS finished ranking the 2021 EQIP applications at the beginning of the month and are waiting to hear back about who'll be pre-approved, which may be by the end of this month.

She completed an online training on working effectively with organic producers.

K. Sumner (SWCD) – There was continued discussion on the No-Till Rental Policy. When the policy was first developed it was reviewed by the County of Orange Law Department. There has since been additions and revisions to it. Discussion followed.

Office Procedures - Customers can visit by appointment now. The office doors will still be locked and mask policies are still in place. The latest policy said that virtual meetings are suggested or recommended. So it doesn't exclude the possibility of in-person meetings. It just says that if we have in-person meetings, masks will be required. And we can't exceed the 50% rule, which counts the number of employees/Directors and vacancies. But if the Board has interest in going back to in-person meetings they can let the District know and we will make sure that we're in compliance. There was discussion on the 50% rule, whether it was per number of employees or 50% of room capacity. The District will look into this some more. One Director prefers the Zoom meetings but is okay with in-person, one wants them to be in-person, the others are fine with either. Discussion followed. As of now, the District will plan for an in-person Board meeting in May as well as offering it on Zoom.

Carbon Farming Project - Things are moving forward. We are waiting for engineer approvals to give the participants the go ahead to do their projects.

Climate Resilient Farming Grant Update - Last month the District received the official notice on the Climate Resilient Farming Round 5 that we will get funding. Our Work Plan materials were submitted to Albany and we will be able to charge expenses to this grant going back to February 22nd.

Flood Project Updates - The surveys that the County is doing for us are in progress. We're waiting on the engineering firm to provide us with a draft construction plan and design so that we can submit the joint application for permit to the New York State DEC. Sumner contacted DEC about a pre-application meeting and apparently, because of reduced staffing on their end, they're trying to limit the number of pre-application meetings they have. So we will be submitting the joint application for permit without a pre-application meeting. It's possible that some of the different divisions over there will want to come out and meet us and look at it in the field.

The District is anticipating that tree planting will happen any time now on Phase Three, Area One, which is where we did the construction work last fall. We want the trees in the ground before May 15.

Phase Three, Area Two, which is the area at the Pochuck Walkill Confluence, is contingent on the SAM grant or some other substantial funding amount that we are as yet unaware of.

Sumner contacted DASNY again directly, which is the state agency that handles the SAM grant contracts. He was told that they approved our application on 3/5/2021 and are awaiting direction from the Division of Budget before taking any further action.

Ag NPS Grant Round 27 – The Round 27 Request for Proposals is supposed to be released in May of this year. Since the District has had a lot of unsuccessful applications over the last few years, we have to decide whether it makes sense to keep writing the same kind of proposals. He believes that we just can't compete with the big farms upstate that have lots of animal units, because that's such a big factor in the ranking. Last month the Directors approved sending a letter to our state legislators asking them what they could do to help move some of this farm project money to the Hudson Valley. Sumner was disappointed that the District received only two responses. The one from Colin Schmitt's office was a simple acknowledgement that they received it, the other was a personalized email from Karl Brabenec who said that he was sensitive to it and that he was going to be working on ways to address it in the budget process.

AEM Round 17 – This contract will be for years 2022 and 2023. We have the option of requesting up to \$100,000.00 for projects for implementation, not just for staff time. In the current round, the District allocated all of the money to three barnyard construction projects. For Round 17, the next one coming up, Sumner proposed to the Directors that we take half of that amount and put it into a local cost-share fund for what he is calling a Local Soil Health Financial Incentive Program (LSHFIP), for low cost, high return conservation practices like cover crop, conservation tillage and residue management. Then take the other half and go back to our projects that were in our Ag NPS Round 26 proposal that wasn't approved and take the highest priority projects. We would confirm that the landowner wants to proceed and then approach the Round 17 implementation funding that way. A draft of the LSHFIP application was provided to the Directors prior to the Board meeting. Sumner is proposing that we would accept applications up until August of this year, which would give Sumner and Ferry time to sort through them and figure out who's eligible and who we're going to include in our AEM round 17 contract. Sumner suggested that five acres would be a reasonable minimum for people to apply and request funding.

2021-4-4 Wright made the Motion, DeBlock seconded, to accept the District's Local Soil Health Financial Incentive Program. All in favor.

Lego Land Update – The NYS DEC negotiated a consent order with Lego Land, and they were going to have to pay \$346,000.00 for violations. Only three days before the consent order was finally finalized, they were presented with additional violations at the site. Back in July of 2020, the District was invited by the DEC to submit projects that would be funded by the consent order with Lego Land and the amount was suggested to us of \$200,000.00. So we spent a fair amount of time developing a list of projects and submitting those to the DEC. We read in the papers that that there was an environmental benefit project included in the consent order,

but it was in the amount of \$50,000.00, not \$200,000.00. And we don't even know if we're the recipient of that EBP or if so whether they're going to tell us what we can use it for. Sumner opined to the Board that he believed this situation reinforces the contention that enforcement of erosion and sediment control regulations is generally weak.

County MS4 Permit - Sumner noted that the County is a permitted MS4 entity and every year they have to submit an annual report. The Water Authority collects a lot of information on behalf of the County. The District did provide information on our activities that can go into the County's annual report to help them in their compliance with the MS4 permit.

The next **MEETING** is scheduled for **Monday, May 17, at 9:00 AM.**

2021-4-5 The meeting was Adjourned at 10:17 AM on a Motion by DeBlock, seconded by Stegenga. All in favor.

Minutes Prepared By:

Christine DeGroodt, Secretary to the Board

Report to Board KMS

April, 2021

*I will be on annual leave from 4/5 to 4/16. This preliminary report was prepared through 4/2.

Office Procedures – We are continuing to operate without any ‘work from home’ requirement for SWCD staff. USDA policies were relaxed further from those in place at the time of last month’s meeting, but the office continues to be closed to the public. As far as we know, SWCD Board meetings are still being discouraged.

AEM/AEM Round 16 Tier 4 (Implementation Projects) [Must be completed by 12/31/21]

Planning and design progressing on all three projects.

Browne has selected a pole barn contractor. Projected start date in April.

Still studying options for Edgwick.

Vreeland plan/design in progress. Will use a metal roof structure. B&L has agreed to provide Professional Engineer services.

Hudson Valley Carbon Farming Project [contract ends 4/30/2022]

Met with Keith Stewart who is prepared to start his compost facility project. Engineering approval is needed and has been requested from B&L. Draft plans have been submitted to engineer and are under review.

Matthew Southway was contacted and is still interested in completing his planned compost facility. He is having a pole barn put up without our assistance, so I asked him to seek a proposal from his contractor for the compost facility roof structure. He has received a proposal that is acceptable to him and to me. The pole barn will use all the project funding. Landowner will provide other components (concrete floor, bins) at his expense. Awaiting PE input.

Vreeland project – B&L has agreed to provide engineering oversight. Draft plans have been provided to the engineer and the landowner. Landowner is anxious to start.

Minkus Controlled Drainage – Waiting on landowner to indicate readiness to begin.

Floodplain Bench Phase 4

CRF 5 Work Plan materials have been submitted to NYSSWCC for review/approval.

Still waiting for Floodplain Bench design/construction plan from B&L before requesting pre-app meeting with NYSDEC. Engineer is trying to fit the Bench within the existing Federal Flood Control Project easement limits without compromising flood control benefit. Unclear yet if this can be accomplished. This is being aggressively explored in hopes it would simplify the easement requirements associated with Phase 4 permitting and construction.

I was contacted by County Surveyor, they hope to survey the Phase 4 area the week of 4/5. This information would allow for more accurate preparation of construction plan and project cost estimates, as opposed to using existing digital data. Will also be needed if new easements need to be created. Expect updated report by time of April Board meeting.

Phase 3, Area 1

Still anticipating April-early May tree planting.

Phase 3, Area 2

We received a form letter from Senator Martucci's office that was sent to a list of potential SAM grant recipients. See correspondence. I reached out to DASNY, and was told that they approved our application on 3/5/2021 and are awaiting direction from the NYS Division of Budget before taking further action.

The County plans to survey Area 2 for us the week of 3/29 also. This information/survey will be used in the progression of conservation easements as required by the current Bench Project permits. This survey work provides significant cost savings to us as compared to having to hire private sector surveyors as we did on phases 1 and 2.

I have studied the financial feasibility of completing part of the Phase 3, Area 2 project without the SAM grant funding. Because the current construction plan calls for transporting soil from the project across a temporary stream crossing that should stay in the stream for as short a time frame as possible, I do not consider it feasible to divide the soil excavation portion of the project into smaller sub-phases. Even if the tree planting work was excluded from this project, my conclusion is that we will not have enough discretionary funding in our 2021 budget to contract for the remaining essential components of the Project. Unless some as yet unidentified source of funding becomes available, I see Phase 3 Area 2 to be dependent on receipt of the SAM grant. My current projection is that at least \$70,000 in new funding would be the minimum necessary to allow reasonable consideration of Phase 3 construction this year. Even with new funding in this amount, it would potentially divert funding from other important programs and projects.

Other

AgNPS Round 27 Grants – are expected to be announced/released in May, 2021. We expect to apply, but are considering how the seven consecutive previous unsuccessful Orange County applications should influence our approach to Round 27.

AEM ROUND 17/'Local' Cost Sharing Program Proposal

Beginning with Round 16, we had the option of requesting up to \$100,00 for 'Tier 4 Implementation' projects as part of our non-competitive AEM contract. Previously, AEM contract funding was exclusively for reimbursement of staff time. Three livestock farm projects are being supported with our Round 16 'Tier 4' funding.

For Round 17, I am providing a proposal to the directors for consideration (this assumes Round 17 will have an equal amount of implementation funding). This proposal would allocate ½ (\$50,000) of the Round 17 Tier 4 funding to a 'local soil health financial incentive' program. Please review the DRAFT

Program description/application form, provided in your April meeting materials, in advance of the meeting if possible. I would like to discuss this proposal further at the meeting and, if discussion finds the proposal favorable, possibly release the program/application form in May. If we go forward with this program, we will need ample lead time to receive/review applications and include the approved farms in our Round 17 AEM Work Plan (expected to be due in November, 2021).

My suggestion for the other half of the Round 17 Tier 4 funding is to go back to the Round 26 AgNPS project rankings that were used to select Round 16 AEM projects. This process will need to be coordinated with the Round 27 AgNPS source proposal development.

Legoland

You may have seen that Legoland and NYSDEC recently finalized a consent order requiring Legoland to pay \$346,000 for stormwater runoff violations. The THR article (3/29) indicates that Legoland will be required to fund an Environmental Benefit Project (EBP) in the amount of \$50,000.

In July of 2020, we submitted an EBP proposal as this consent order was being negotiated in the amount of \$200,000. This amount was suggested to us by NYSDEC contact.

I find it ironic and regrettable that, with Legoland being cited for additional violations only 3 days before the Consent Order was finalized, the EBP was apparently reduced from \$200,000 to \$50,000. There have been 63 total violations at this site since 2018, according to the THR article. I make note of this not only because the EBP amount is disappointing (and as of now we don't even know if we are the EBP recipient or, if so, who will decide which of our proposed projects the scaled-down funding will be directed to), but because I find it to be a damning example of the lack of effective enforcement of stormwater runoff regulations. This is a high-profile site. When you multiply this by the hundreds of other sites in the County *not* necessarily receiving such close attention, it's no wonder we have waterbodies with sediment and nutrient issues. The fines do not negate the water quality impacts.

County MS4 Annual Report – I provided information on SWCD activities to OC Water Authority for inclusion in the County's MS4 Annual Report. Activities were limited partly as a result of Covid restrictions over the past year.

C. DeGroodt

Board Meeting Activities March 13, 2021 – April 16, 2021

- We currently have \$372 cash awards on the rewards credit cards.
- Typed last month's Board Meeting transcript/minutes.
- Currently working on a Soil & Water 2020 Annual Report/Newsletter. Requested a photo and short bio from the Directors.
- Currently working with the auditors on our 2020 audit. Everything is being done via emails and uploading documents to their portal.
- NYS Retirement Update – They updated their website to a new platform. In order to enter payroll information I completed another training with Christy D. who works in the Employer Reporting Unit. Travis is in their system and he is now up-to-date. At the end of this month we will begin to report info. for Sumner, O'Dell and I. Even though we opted out they are still requiring our payroll be reported monthly.
- I've continued to work with the IT computer guy on completing backups of our share drive and any other issues we've been having.

TF Board Meeting Activity Summary

- Working on Tier 2 visits for AEM program.
- Both seeders are ready for use, working on some corn planter maintenance before they are needed.
- Still getting soil worksheet requests coming in.
- Checking on AEM Tier 4 implementation projects
- Worked on a couple of articles for the newsletter
- Had a few PDR soil requests come in from the Town of Warwick
- Coordinated with the Tom Barry to get his crew to the bench for surveying, dropped off UTV for them to use.
- Submitted plan of work for CRF 5