

MINUTES
ORANGE COUNTY SOIL & WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS
August 17, 2020

The **MEETING** was **CALLED TO ORDER** at 9:05 AM. Directors P. Ruskiewicz, P. DeBlock and G. Constable along with K. Sumner, T. Ferry and C. DeGroodt (SWCD) and J. Wright were present at the office. A. Armlin-Sorgen (NRCS) and S. Cruz joined remotely.

It was decided that John Wright would Chair the meeting. Everyone in attendance introduced themselves to Steve Cruz.

An e-mail sent to the Board from Steve Cruz, who operates a gamebird facility, regarding a no-till bill he received was discussed. Cruz was also in attendance remotely. He wanted to know why he did not get approved for a fee waiver for using the equipment on 11 acres. Cruz's e-mail states that the District's no-till equipment was used to plant cover for his hunting preserve activities. His email also accuses the District of discriminating against him and singling him out because he is a minority farmer. It was immediately made very clear to Cruz that no one at Soil and Water was even aware he was of a minority group and unless he retracted his very serious accusation of discrimination, a conversation could not take place today at the meeting and that Cruz would have to pursue that accusation formally by whatever means he chose. Cruz wished to move forward. He stated he lives solely off of the profits of his farm, with the exception of Social Security and that he is not a hobby farm. The Board requested to see his Schedule F tax returns and Cruz questioned why was he being singled out to supply a Schedule F to the Board. When asked what he did with his adult gamebirds, he stated he is a registered NPIP farm that sells birds to hunting clubs, West Point and to the public. Sumner stated that the issue is whether the use of the District's equipment was to support a legitimate farm purpose. And that the District checked with Ag and Markets last week, and we concur that raising gamebirds is a farming activity, but they have also ruled that lands used for hunting preserves are not eligible to be considered as agriculture. So that's the distinction we're making. It's a Board decision on when a fee is waived (it is clearly noted on Item #2 of the No-Till Fee Waiver Policy). And we have other cases where plantings that were done for food plots or for cover are not considered eligible for the exemption. He explained to Cruz that he is not being treated differently. He is being treated the same as another operation nearby that had similar circumstances. The Board questioned what was done with what he planted with the District's equipment. Cruz stated he harvests it with a brush cutter and feeds it back to his birds. But that it also serves as a cover for the birds, which are in an enclosed pen, and used for hunting purposes. The Board thanked Cruz for joining the meeting and told him it will be discussed later under Old Business.

2020-8-1 DeBlock made the Motion, Ruskiewicz seconded, to approve July's Board Meeting Minutes as written. All in favor.

ACTIONS TAKEN BETWEEN MEETINGS – The District's credit card was paid between meetings and it is listed on the Bills for Board Approval.

CORRESPONDENCE

- The bank statements and collateral agreements are available for review.
- A letter that the District sent to the landowners who front the Wallkill River in the proposed bench phase four area was discussed. It introduced and gave them some background on the next phase of the Wallkill River Flood Mitigation Project.
- A letter from the County of Orange Executive Neuhaus thanked John Wright for his many years of service on the District Board.
- The County of Orange sent letters that noted the reappointment of Paul Ruskiewicz and the appointments of George Constable and Laurie Tautel to the Board. The District also just received a copy of the full legislature resolution formalizing those appointments. Ruskiewicz added that John Wright's appointment to the At-Large seat should be on next week's agenda and will be voted on at their September session.
- The District received an update from the New York Association of Conservation District Directors. It included plans for this year's Annual Meeting. They won't be having their regular training sessions, they're just going to have a business

meeting and that will be done remotely and take place in October. This would be the opportunity for any resolutions from Districts to be presented to the rest of the state.

- The budget hearing schedule was presented to the Directors. The District's hearing was last Wednesday and will be reported in more detail under NEW BUSINESS.
- The New York Envirothon Committee is expecting to have the National Envirothon in New York State in 2024 and they are looking for donations from Districts. They are requesting \$3,000 per District to support this national event. Discussion followed. No action taken.
- New York State Retirement sent the District the next steps for us to follow in order to formalize getting into the state retirement program.

FINANCIAL REPORTS – The District received the full 3rd quarter appropriation from the County of Orange last week. Unless something changes, and they decide to give us more than what they are telling us right now, we're down 24% from what our approved budget was. We were supposed to receive approximately \$242,000 and by the end of the year we will have received around \$185,000.

Ruszkiewicz asked if there has been any word on the SAM grant. Sumner said no, but he checks with Senator Metzger's legislative person periodically and they keep assuring him that it's still there. It's just that everything's moving very slowly and they had almost everybody working remotely for a while. But apparently they have about half of their people back on some kind of regular schedule. But he explained that SAM grants are traditionally extremely slow even without this current situation. He was told that it typically takes a year from the time you make your formal submission to DASNY. And we did not submit it until October 2019. So even under the best of circumstances, it could have been October this year before we saw a contract, so it's probably going to be longer than that.

2020-8-2 DeBlock made the Motion, Ruszkiewicz seconded, to file July's 2020 Financial Report for audit review. All in favor.

BILLS FOR BOARD APPROVAL – Sumner mentioned a bill that had been added last minute to the list of Bills for Board approval in the amount of \$61,930.00. This was to pay back Ag & Markets money that was not used on one of our Ag grants.

The list of bills was reviewed by the Board.

2020-8-3 DeBlock made the Motion, Ruszkiewicz seconded, to accept the Bills to be Paid. All in favor.

Grant Update Reports – There has been no activity to report on the ag grants. DeGroodt will email the latest quarterly report to Constable.

STAFF REPORTS

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

T. Ferry (SWCD) – Ferry requested to attend the virtual Conservation Skills Workshop in the fall for a fee of \$10. The Board was in favor of this.

K. Sumner (SWCD) - The District had three contracts that ended at the end of 2019. The person that Sumner has been working with at the State office to close them out has been asking for a lot of paperwork that they haven't asked for in the past. We did get formal acceptance of the final report for one of the grants, the one we're making the final payment back to the state on. Sumner said he has almost completed the review process on a second grant and is working on the final grant close-out so maybe by next month we'll have all three of those grant closeouts finally behind us. Sumner told our reviewer that if we're starting a substantial construction project, the District will be sending him a bunch of stuff ahead of time so if there is an issue it is identified immediately. Hopefully we can avoid some of this confusion going forward.

INTERAGENCY REPORTS

Armlin-Sorgen NRCS – Armlin-Sorgen is currently working on obligating the 2020 EQIP applications into contracts and taking applications for 2021 EQIP as well as the Urban Ag for AMA.

Joe Heller was offered a new job as the Urban Conservationist with NRCS for New York State, and he's going to be starting that job at the end of the month and working out of the Highland Office. So NRCS is currently looking for someone to take his old position, being posted right now at Grade 11. The Board asked what his old position was here in the Middletown office. Armlin-Sorgan said that he was the Resource Conservationist.

Farm Service Agency - Persoon is still in training as the County Office Trainee. They've extended the deadline for the CFAP Coronavirus Food Assistance Program from August 28th to September 11. They are now releasing the other 20% this week and anybody else coming in to sign up will automatically get the hundred percent. They've opened the program up to more crops and a wider range of animal sizes. To date, Orange County has given out \$1.1 million to producers.

OLD BUSINESS

The County budget situation was discussed prior in the meeting. Sumner had a meeting with the Budget Director and the Deputy County Executive and presented our case for having them forward the rest of our appropriation for this year, and as we've already discussed, they, as a result of that meeting, notified us that we'd be receiving \$100,000 more, which is \$20,000 less than what was scheduled. Sumner predicts that we're going to have to tap into not only our Contingency Fund but also our Equipment Replacement Fund in order to complete the next phase of the flood project and meet all our other payment obligations. After discussions with the Directors, it was agreed that we want to get that additional project done. Sumner relayed that to the contractor but it may not happen until after Labor Day. If the weather is favorable this fall then we should be able to get that completed.

SAM Grant Update - The SAM grant was discussed briefly earlier in the meeting and what the status of it is. We won't be able to cobble together enough money from our regular funding sources to do the next piece of phase three next year which is probably going to be a \$400,000 contract. It will depend on either the SAM grant coming through, or some other substantial funding source becoming available. And as Sumner noted before, the SAM grants are reimbursable. So even if the contract comes through we'll still have to deal with the cash flow challenge.

Climate Resilient Farming Grant Update - With the state, hopefully getting back in business, the District is hoping to hear something on the Climate Resilient Farming round five grant, which is \$300,000 in state money to go to phase four on the bench. So, in theory, we could start doing advance environmental studies and permitting and design even if we haven't completed phase three. We just won't be able to proceed with that construction until we've completed that. Typically they'll backdate the contract to when the projects were approved by State Committee. So, potentially that could have a contract start date earlier this year, and then we could contact the consultants that we have been talking to for the environmental work and the archeological work and get them going on that. We still need to make a decision on engineering.

Celery Ledge Project Update - There's nothing new to report on the Celery Project. Sumner reminded the Board that this would be the time of year to do that project and you could probably do a lot of it without even touching the live water. DeBlock mentioned some road embankment stabilization work being done on Celery Avenue. The District is assuming it's being done by the town but it may be contracted. There are pylons there that you have to go around because the road is breaking off. There was discussion of possibly doing a bench there. Sumner thinks that engineering models would indicate that a bench in that section even smaller than what we're dealing with now would probably have more flood benefit than notching the rocks. Sumner thinks you'd have to include a bench on the other side, because there are places where you've got houses that are almost right up to the edge of the river. So you you'd be stabilizing the bank, but not improving the flood conveyance if you've got places where it pinches back down to what it is now because of the houses. Discussion followed.

Hudson Valley Carbon Farming Project Update - Sumner gave a quick recap on the Hudson Valley Carbon Farming project for the benefit of our new participants. This was funding that Senator Metzger expanded from an earlier version that only included Dutchess County Soil and Water. So now Orange is part of it, and it's a \$400,000 carve-out. We were able to secure about \$100,000 of that. About \$20,000 of that would be for our staff time support and the remainder would be to support six projects that we've identified. The contract paperwork is fully signed and being run through Dutchess County Soil and Water. We're just waiting for them to get an advance payment from the state. They've requested 90% of the grant amount and we're being told that that's scheduled for payment in August. If that happens, then we'll be able to get seriously moving on some of those projects. We've been doing some design work and some soil health testing. O'Dell and Ferry have been working together on that. The implementation funding is divided between six farms. The soil health testing is completed on four of the farms and we'll collect the soil health samples on the remaining two after they remove the corn from the fields.

AEM Grant Update - Sumner explained that this is our non-competitive state money that we can apply for every year. But in 2020, for the first time, we were able to ask for money not just for staff time, but also for implementation. It's a two year contract, 2020 and 2021 and for \$214,000. \$100,000 of that is for implementation. We have a \$50,000 maximum per farm that we can allocate any one farm. We elected to allocate one hundred thousand to implementation on three farms in the Moodna Watershed which leaves \$114,000 for staff time. It's one of our big contracts that we rely on for staff time money. We have to focus on certain eligible activities, but it's part of what we will rely on to pay the bills. We had received a 25% advance on that contract in July for \$56,000. And we just completed a progress report and reimbursement request for an additional \$12,000 in staff time that we've incurred over and above the initial 25%. It's one of the payments that Sumner mentioned earlier that the District will be relying on to balance the budget for the rest of the year. The District is doing planning and pre-design work on one of those three farms. One is scheduled for design and construction in 2020. The third is the goat farm that we've discussed located in Cornwall, NY. They're currently having hard economic times because of this pandemic situation. So they're on hold. We'll have to decide how long we're going to give them before we have to pull that project and have to shift that to another farm. We will need to probably make a decision by early next year on whether we're going to switch that money to another farm.

NEW BUSINESS

The District's Budget Hearing was mentioned earlier. Our formal County Executive Budget Hearing was last Wednesday and there were no big surprises. Harry Porr's words were "we'll try to be as kind to you as we can". And that we'd have the opportunity to appeal with the legislature.

Director Training Plans - Sumner prepared training plans for the two new Directors and updated existing Director's plans. He explained that the state has a program called Performance Measures and that each year we have to complete a report and among many other items in it, it includes a measurement of whether the Directors have an updated training plan or whether they've completed at least one item out of that training plan. So if for no reason other than earning the money that's associated with the Performance Measures, which is substantial, over \$100,000 a year, we want to make sure that all the Directors have a training plan. He suggested that the Directors look these over and we can have this on the agenda for next month. He doesn't think it's something that needs a formal Board action, but wants to note in the Minutes that the Board has reviewed their training plans and they're okay with them. One of the requirements of a new Director is that they receive training on Conservation District Law. And all the Directors are supposed to have this training at least once every three years. But new Directors are supposed to get it in the first year that are on the Board, unless they come on in the last two months, then that first year requirement is waived. This year, there are additional special circumstances because of the pandemic. They're not going to hold us to completing all these performance measure requirements. Since all the other Directors had District Law training just last year in November 2019, Sumner suggested that if George and Laurie are okay with it, to take this training through an online Vimeo (34 minutes). So if George and Laurie are willing to do that on their own, then time wouldn't have to be allocated at a Board meeting. They can self certify by sending Sumner an email that they completed the training.

All of the Directors are expected to complete at least one training item every year. We usually try to take care of that at a Board meeting. We do Civil Rights training or some other item that, as long as they're noted in the minutes, then that kind of satisfies that requirement. Sumner added two website links on the training plans this year, so that if Directors wanted to go ahead and complete a training item then they can.

There's a requirement that at least three Directors participate in some kind of a regional or statewide function that relates to Soil and Water as well.

2020-8-4 DeBlock made the Motion, Ruskiewicz seconded, to go into Executive Session at 10:22 AM to discuss legal matters. All in favor.

(A. Armlin-Sorgen left the Meeting at 10:22 AM)

2020-8-5 DeBlock made the Motion, Ruskiewicz seconded, to come out of Executive Session at 10:39 AM. All in favor.

The Board made the recommendation that the District send a letter to Mr. Cruz asking for clarification on his harvesting for feed practices. His request for a Fee Waiver will be considered after he submits documentation. It was noted that the fees are extremely reasonable for what they're getting and users are happy to pay them in order to keep the program going.

There was some discussion on continuing to meeting in person or Zoom for Board meetings. The Board members are fine with either way.

The next **Meeting** is scheduled for **Monday, September 21, 2020 at 9:00 AM.**

2020-8-6 The Meeting adjourns at 10:56 AM on a Motion by DeBlock, seconded by Ruskiewicz. All in favor.

Minutes Prepared By:

Christine DeGroot, Secretary to the Board

Report to the Board

August, 2020 KMS

OLD BUSINESS

a. Wallkill Flood Projects

1. Phase 3, Area 1 Contract – As of 8/7, O.C. Budget Director indicates Soil and Water will receive \$100,000 additional County appropriation funding beyond what has been received to date. This equates to a 23.8% cut from our approved 2020 County Appropriation amount (budget - \$242,991; projected actual - \$185,046). I revised the latest projected 2020 figures to reflect this reduction. Based on my projections, completing the Phase 3, Area 1 flood control project with these cuts will require using all our equipment replacement and contingency funds, and could potentially require deferring some 2020 liabilities until 2021 (where possible). This latest projection also assumes receipt of additional NYS funds, primarily AEM and Carbon Farming Project contract payments.
2. SAM Grant – Metzger’s Albany staff still says they have no indication that these awards will be retracted. But State agencies have been out of office and are still only working at ½ capacity. So a process that was already slow will take even longer. We submitted the formal application to DASNY in October, 2019 and even w/o the Virus slow-downs it was taking up to a year for SAM contracts to get reviewed/approved. Using this funding for the rest of Phase 3 in 2021 is therefore questionable, and even if the contract comes through, we will still need a cash flow plan.
3. Climate Resilient Farming Round 5 Grant – The Governor has still not authorized release of the results that were accepted by NYSSWCC in April. If this award comes through, it will allow us to begin studies, permitting and design for ‘Phase 4’ of the Benching work in 2021, with an optimistic construction start date in 2022. A letter introducing the proposed Phase 4 work to affected landowners was included in this month’s outgoing correspondence.
4. No new information or progress on Celery Ledge project.

b. Carbon Farming Project (CFP)

1. Last month we reported that the contract between Dutchess SWCD and NYSSWCC supporting this project was fully signed, but as of now we are not aware of any advance payments from NYS to DCSWCD. We have at least one, and possibly two, construction projects that could start as soon as funding is available. We have started Soil Health testing and other fieldwork and preliminary design work in anticipation of the CFP moving forward. There are six Orange County farms in this project.
2. We are relying on the CFP to provide \$10,000 in staff time support to help balance the 2020 budget.

- c. Board Appointments – We recommended John Wright to the County for the ‘at large’ seat vacated by Gary Keeton. Recommendation was sent to H. Porr, S. Brescia and County Legislature office on 7/27.

NEW BUSINESS

- a) Meeting with County Executive regarding District’s Appropriation – On Wednesday 8/5, I met with Deputy County Executive Harry Porr and County Budget Director Debbie Slesinki regarding our third and fourth quarter appropriation payments. See Old Business item A.1 for ultimate outcome of this meeting.
- b) Moodna Watershed EBP – I reported on this last month. A fourth project was added to update the Moodna Creek Watershed Conservation and Management Plan. The 4-project proposal was submitted to NYSDEC on 7/23. No further information has been received since this submittal.
- c) Budget Hearing With County Executive’s Office – Our 2021 budget hearing took place on 8/12. Our appropriation request, which was level with 2020, was noted and discussed. Some years we get preliminary indication of support for our request at the hearing, but it was unclear this year if the County Executive’s office would adjust the request.

Other Items

AgNPS Grant Close Outs

I have discussed over the last several months the time demands and challenges of closing out three AgNPS grants that ended at the end of 2019. One of these, Round 20LW, has been successfully closed out with NYSSWCC. I noted last month the amount of the payback on this grant. Chris and I discussed postponing making this payment until we receive our third quarter appropriation check, if possible. NYSSWCC staff visited the one farm in this grant that completed their scheduled project on 7/22.

The Round 20 FR grant close-out phase with our AEA, Ben, has been completed. The close-out package will now go to AgNPS Program Manager Bethany Bzduch for final review. Farms in this grant round that completed projects were visited by NYSSWCC staff on 8/11.

Close out of Round 22 is in progress.

C. DeGroot Board Meeting

Activities July 20, 2020 – August 12, 2020

- We currently have \$251 cash awards on the rewards credit cards.
- Typed last month's Board Meeting transcript.
- Worked on new reports in Quickbooks. I will be getting additional training from Rachel (she set up our Quickbooks).
- NYS Retirement paperwork was sent in (as they requested). We received additional paperwork to fill out for them on 8/12/20.
- I have been sorting through our old office files and shredding unnecessary paperwork and organizing the rest.
- Greater Catskill Flood Program close-out paperwork scanned and sent to New York State Homes & Community Renewal
- Updated the District's instruction manual for all online sites we use.
- Participated in the NYS Archives and Records Management webinar on 7/29.

TF August Board Meeting Activity Summary

- Working on AEM interim report, to submit claim for payment for hours earned beyond 25% advance
- Did an AEM visit to a farm in Chester black dirt for their Grown & Certified certification
- Conducted soil sampling with Ron for the Carbon Farming Project, samples shipped to lab.
 - Still have 2 more farms to sample for, waiting for corn to be harvested
 - Surveyed PITN field with Kevin
- Continued to coordinate no-till rentals with Ron
 - Planter is currently out for sunflowers
 - Both seeders will likely be out this weekend, 8/15
- Coordinated with Chris Vellenga to do some Walkkill maintenance after the Tropical storm, a few new trees were down, nothing major though