

Minutes of a Meeting of the Outdoor Heritage Advisory Board
Held on May 8, 2020 at 9:00 a.m.
Microsoft Teams

Present: Robert Kuylen, OHF Advisory Board Chairman
Randy Bina, OHF Advisory Board
Tyler Dokken, OHF Advisory Board
Jay Elkin, OHF Advisory Board
Brad Erickson, OHF Advisory Board
Carolyn Godfread, OHF Advisory Board
Tom Hutchens, OHF Advisory Board
Daryl Lies, OHF Advisory Board
Kent Reierson, OHF Advisory Board
Rachel Retterath, OHF Advisory Board
Patricia Stockdill, OHF Advisory Board
Wade Moser, OHF Advisory Board
Terry Steinwand, OHF Advisory Board
Ryan Gardner, OHF Advisory Board
Tom Claeys, OHF Advisory Board

Also

Present: A complete list of attendees is available in the Industrial Commission (“Commission”) files

Chairman Robert Kuylen called the meeting of the Outdoor Heritage Fund Advisory Board (“Board”) to order at 9:00 a.m. with a quorum being present. Rhonda Kelsch was unable to attend the meeting.

It was moved by Mr. Reierson and seconded by Mr. Bina to approve the December 10, 2019 minutes as presented. The motion carried unanimously.

Ms. Fine provided a financial summary as follows.

	Cash Balance
July 1, 2019 Balance	\$ 30,662,352.54
Interest Revenue through March 31, 2020	\$ 54,531.48
Revenues through March 31, 2020	\$ 7,500,00.00
Returned funds	\$ 29,351.70
Grant Expenditures through March 31, 2020	\$ (3,046,825.54)
Administrative Expenditures through March 31, 2020	\$ (2,814.15)
	\$ 35,196,596.03
Outstanding Administrative Expenses	\$ (147,185.85)
Outstanding Project Commitments as of March 31, 2020	\$(22,942,303.25)
Balance	\$ 12,107,106.93

Ms. Fine noted that while the Fund was appropriated a total of \$15 million for the biennium, the most the Fund can receive in a fiscal year is \$7.5 million. The Fund has received the full \$7.5 for the current fiscal year. Given the current economic conditions, it is possible that the Fund will not receive the full \$7.5 million in the next fiscal year. Industrial Commission staff will continue to watch this situation.

Mr. Kuylen called on the first applicant to make their ten-minute presentation.

16-7 (A) Devils Lake Park Board: Creel Bay Dock and Boat Slip Project, \$50,000

Project Summary: Install a floating dock, boat slips, gangway, and suspend walkway on the east side of Creel Bay next to the Creel Bay Golf Course Clubhouse to dock boats.

Mr. Terry Wallace gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) In response to a question, the applicant stated:

- The clubhouse is open to the public.

16-10 (A) Sargent County Water Resource District: Silver Lake Dam Improvements, \$41,577

Project Summary: To alleviate the safety concerns of water seepage through the embankment of Silver Lake Dam, protect the available recreational and natural resources, and provide flood protection for properties along the Wild Rice River.

Mr. Benjamin Kugler gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) In response to questions, the applicant stated:

- The Park Board and Water Resource District can obtain the local 25% match but doing so would require bonding over numerous years.
- At a funding level of 60% cost share from the State Water Commission and 25% local match, the OHF request would be reduced to \$40,950.
- Full construction is the actual building of the project and engineering consists of the services to be out on-site during construction. Because it is a dam, an engineer is needed to be out on the site to inspect the tree removal and reconstruction of dam embankment.
- There would be no issues with the State Water Commission in moving the engineering costs over to construction costs.

16-11 (B) Salted Lands and Water Inc: Bottineau's Big Four Salted Townships, \$30,697,052

Project Summary: Initiate reclamation of saltwater spills in four Bottineau Townships troubled by long term well abandonment which will focus on brine spilled sites and rate our 50 sites on a 1-4 scale.

Mr. Fintan Dooley gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) In response to questions, the applicant stated:

- The belief is that contributing funds can be obtained from water boards along with environmental and stewardship groups.
- Presentations have been given to local water boards, Ducks Unlimited, Farmers Bureau, and Farmers Union.
- The only current commitment is \$10,000.
- Salted Lands and Water Inc. is a 501c3 company and received that status in January 2019. Before that, it was an educational non-profit since 2015.

16-2 (B) Cass County Soil Conservation District: Cass County Cover Crop Project, \$60,000

Project Summary: Provide financial and technical assistance for establishing conservation cover crops in Cass County.

Mr. Eric Dahl gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) In response to questions, the applicant stated:

- Livestock grazing is allowed and would be used to keep tillage out in the fall.
- While wildlife is not the focal point, wildlife does benefit by having several hundred acres of forage left on the landscape.
- The project is both for new and prior participants, but the goal is mainly to assist new participants until they feel comfortable with the process.

16-8 (C) Theodore Roosevelt Medora Foundation: Flood Plain Riparian Habitat Restoration, \$322,300

Project Summary: Give back a total of 20 Riparian acres through moving the golf course off flooded low lying lands by creating an earthen structure with a backflow control structure in Davis Creek that will

prevent the possibility of negative runoff of fertilizers and pesticides into the Little Missouri River following a flood event.

Mr. Randy Hatzenbuehler and Mr. Kyle Fick gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) In response to questions, the applicant stated:

- There is a natural flow of the river and frequent struggles with flooding, so instead of trying to transition it into a golf course, the project focus is on returning it back to nature.
- A second phase of the project is being planned that will include a landing for kayaks. That phase was unable to be incorporated into the current application due to Covid.
- The goal is to restore this area back to its original habitat permanently. It is not anticipated to have any other use, and this could be incorporated into the contract if funds are awarded.
- An alternate species for Canada Wild Rye could be considered.

16-9 (C) McLean County Water Resource Board: Fort Mandan and North Dakota 4-H Camp Access Road Improvement Project, \$356,421

Project Summary: To provide safe access to the adjacent Fort Mandan State Recreation Area and North Dakota 4-H Camp facilities by constructing adequate stream crossings at Buffalo Creek.

Mr. Roger Clay and Mr. Lynn Oberg gave a presentation (A copy of the PowerPoint presentation is available in Commission files.) In response to questions, the applicant stated:

- The State Water Commission did not grant the amount requested because the staff recommended that the project be recognized in terms of value for the cost of an \$8 admission only, and the ancillary expenses incurred by visitors was not included in the economic analysis.
- The other two organizations involved have not contributed to the project because 4-H is a nonprofit group with minimal funding and North Dakota Parks and Recreation did not have the budget. The 4-H organization did help with the feasibility study.

16-1 (D) City of Columbus: Columbus Cougar Park, \$8,000

Project Summary: Develop the old Columbus High School lot into a new community park called Cougar Park. Funds will be used to purchase playground equipment, prepare the lot, and safely install equipment.

Ms. Brooke Watterud gave a presentation (A copy of the PowerPoint presentation is available in the Commission files.) No questions were asked of the applicant.

16-6 (D) City of Turtle Lake: Turtle Lake Park, \$6,597

Project Summary: Replace the existing ground cover under the playground equipment with new ground cover in accordance with First District Health Units (FDHU) requirements.

Ms. Kate Hanson gave a presentation (A copy of the PowerPoint presentation is available in Commission files.) In response to a question, the applicant stated:

- The letter sent by FDHU stated the change was needed to abide by the standards for public playground safety.

It was noted that all public playgrounds have surfacing standards.

16-3 (D) North Country Trail Association: North Country Trail Signage Improvement Project, \$51,800

Project Summary: To create 34 new interpretive panels installed in 18 new and 3 existing kiosks along the North Country Trail between the Sheyenne State Forest and Fort Abercrombie.

Mr. Tom Moberg gave a presentation (A copy of the PowerPoint presentation is available in Commission files.) No questions were asked of the applicant.

16-4 (D) City of Milnor: Storm Lake Walking Path and Observation Deck, \$16,270

Project Summary: Build a 12' x 24' wildlife observation deck on Storm Lake, plant a pollinator garden, and reconstruct the prairie road adjacent to the lake into an 8-foot-wide walking path that will encircle Storm Lake.

Ms. Carol Peterson gave a presentation. (A copy of the PowerPoint presentation is available in Commission files.) In response to a question, the applicant stated:

- In this request, both plants and seeds will be used in the pollinator garden, but OHF funding dollars will still be used only for the deck.

16-5 (D) City of Underwood: Walking/Bike Path, \$24,100

Project Summary: Construct a concrete walking/biking trail with crosswalks to connect to existing paths and be 1,550 feet long (approximately 1 mile) and 6 feet wide.

Ms. Diane Schell gave an oral presentation. In response to a question, the applicant stated:

- OHF funds would just cover the area from the eastern edge of Underwood to Highway 83.

16-12 (D) City of Hillsboro: Riverwalk Park and Trail System, \$1,297,916

Project Summary: Provide outdoor recreation which will include two playgrounds, two shelters, gazebo, trail system, fishpond, and boat launch at the river.

Mr. Jon Lowry gave a presentation (A copy of the PowerPoint presentation is available in Commission files.) In response to questions, the applicant stated:

- Storm water from the subdivision would route through the pond along with a permanent 15-foot deep pond elevation. There would also be an intake off the Goose River that would be used for filling when low.
- The owners of the subdivision will pay the 25% match up front. Business owners in the community have also expressed interest in participating in some of the improvements so a total of \$525,000 would be provided as match, but not in the first year.
- There is a difference in the budget which is because adjustments were made for allowable funds. The budget in Exhibit A is the overall budget for the project.

There was general discussion by the OHF Advisory Board on Grant Round 16 applications as follows:

16-7 (A) Devils Lake Park Board: Creel Bay Dock and Boat Slip Project, \$50,000

- The prior concern was public access, but now publicly owned property is providing access to users of Devil's Lake.
- Now it is clear the public will have access and it is receiving a lot of local support from the Park District. It is a highly used area and will be good if the OHF invests in this project.
- The technical committee questioned the ownership of the kayaks and paddleboats because they can be stolen.
 - It was clarified that the budget shows the kayaks, paddleboards, storage sheds, and jackets are proposed as match. This has been allowed in the past.
- Although the public can go into the clubhouse to eat, there is no public access from the dock to land.
 - It was clarified that there is a public access boat ramp from the southside of the clubhouse that used to be privately owned so payment was required to enter, but now that issue has been resolved.
- There is access to the golf course now because there is a parking lot to the clubhouse where the public would be able to rent kayaks.

16-10 (A) Sargent County Water Resource District: Silver Lake Dam Improvements, \$41,577

- A contingency could be made that OHF funds would be used for construction costs.
- The State Water Commission awarded an additional \$53,973. Because of this, the request has decreased from \$95,550 to \$41,577.

16-11 (B) Salted Lands and Water Inc: Bottineau's Big Four Salted Townships, \$30,697,052

- It is a great project but was presented in a way that it cannot go forward.

16-2 (B) Cass County Soil Conservation District: Cass County Cover Crop Project, \$60,000

- This is a good project because there is so much dirt that blows around and it would be nice to see some vegetation on the land.
- Many farmers have questioned whether this could work in the Red River Valley, but it has been proven to be effective. This type of project could encourage others to move in that direction.

16-8 (C) Theodore Roosevelt Medora Foundation: Flood Plain Riparian Habitat Restoration, \$322,300

- It is more of a flood protection project than a conservation project. The acres will be offset because a lot of trees and natural habitat will be removed for new holes. To view it from the golf course will cost approximately \$85.
- Supportive of the project even though the primary focus may be flood control. With all the other conservation and preservation efforts in the area along with the hiking and kayaking recreation opportunities, there are multiple ways people can enjoy it.
- This project involves removing the riparian habitat, but all the trees have already been removed and the suggestions for planting will look like nothing along the Little Missouri River. The grasses do not naturally occur in Billings County. For example, Big Blue Stem is uncommon and does not grow in the flood plain, but rather where snow builds up on hill slopes and draws with good soil and extra moisture. The project consists of bad choices in vegetation. They are spending a lot of funds to protect the golf course in its new position.
- It was suggested that advice could be offered on proper vegetation for the flood plain and Little Missouri River.
- The Mah Dah Hey Trail does not run through this area. This project consists of \$70,000 for 20 acres and the river is taking it back anyways. The cost of redoing the holes was \$700,000 and that does not include the dike for flood control to protect the rest of the golf course. The issue is that the golf course was put in a flood plain and now they are trying to put it back to what it should have been. It is not creating any additional habitat that the river will not take back eventually.
- The second phase of the project which involves access for canoes is easily supportable, but the current phase involving flood control is a struggle.

16-9 (C) McLean County Water Resource Board: Fort Mandan and North Dakota 4-H Camp Access Road Improvement Project, \$356,421

- Concern was expressed regarding a lack of local support.
- This would not open any additional access, but rather repair a road that was initially poorly designed. Because of this, it is unclear that it meets the OHF directives.
- It was clarified that the \$8 fee is for entrance into the interpretive center which would also cover access into Fort Mandan. The area of the road where the culverts are is the county's road and not owned by the Parks and Recreation Department. Although the Parks and Recreation Department supports the project, they are limited by budget constraints.
- The smallest culvert is at the end of the drainage system which is the problem and it is on the 4-H section of road.

- The fix could be done locally with less costly alternatives.
- It was suggested that McLean County install a larger culvert in that area.

16-1 (D) City of Columbus: Columbus Cougar Park, \$8,000

- The community has put a lot of work into the project, which is also in oil country.
- Given the amount of local support, recreational opportunities, and revisions to playground equipment, it is in line with the Century Code.
- It is a good project for a small community.

16-6 (D) City of Turtle Lake: Turtle Lake Park, \$6,597

- Tearing out a surface and replace with ground cover is a maintenance issue. One of the questions applicants are asked is who is going to maintain the project. This seems to be coming in after the fact with a maintenance project.
- Why and who are condemning playgrounds? Both medium and larger size communities have playground standards and are completing their own inspections and audits. Now, smaller communities have been tasked with completing their own playground standards also. Engineered wood fibers is the most economical and is also approved for accessibility. Sand, for example, no longer meets accessibility standards. The North Dakota Insurance Reserve Fund (NDRF) is the insurance company that covers public playgrounds for these communities and there are standards that need to be met for continued coverage. Also, the health units around the state are doing inspections because they are also responsible for children and want to ensure they are playing in a safe environment. Surfacing materials are expensive, especially for a small community.
- Most likely it met the current standards at the time it was being built and now that playground standards have changed it is difficult for these smaller communities to keep up with the standards. This project is more about trying to obtain the funds to be in compliance with the standards.
- Once these mandates have been issued, there are usually no resources offered to assist these communities with funding before a fine or shutdown is implemented.
- Currently, there is a clay/sand mix which would not comply with any safety standards today.
- Concern was expressed that OHF not lose its conservation focus.

16-3 (D) North Country Trail Association: North Country Trail Signage Improvement Project, \$51,800

- A better use of OHF funds would be to create additional trail rather than putting signs up for an existing one.
- Signs should be put up after you have built a new trail or extended an existing one, not after it has already been in operation.
- The exact number of individuals utilizing the trail was unknown but it was estimated at approximately 30 people.

16-4 (D) City of Milnor: Storm Lake Wildlife Observation Deck, \$16,270

- This is the third try for this project which has not changed. The feedback has been that we'd rather see a complete project with a trail.
- Benches would be better utilized along a scenic area of a trail. Even if there are accessibility concerns, those could be addressed with the proper trail.

16-5 (D) City of Underwood: Walking/Bike Path, \$24,100

- This is a really good project with the current system and highway issues.
- It looks like there are sidewalks on both sides and it is referred to as a sidewalk in construction costs. The sidewalk is 1,500 feet but does not go anywhere other than to the Dollar Store and back.

- There is a distinct need for the sidewalk, but it only seems like it is an access point to and from the Dollar Store. When the city did the zoning for the store, this infrastructure should have been addressed. There is a need, but this may not be the proper funding source for that need.

16-12 (D) City of Hillsboro: Riverwalk Park and Trail System, \$1,297,915

- This is hard to support because it looks like a park in a new housing development.
- If supported, every developer in the state would be requesting funds for parks for their development plans.
- This project involves taking productive land and encouraging development instead of conservation. It would be a dream for a developer to have someone else pay for a park while they sell lots and assess them at a higher value.

Chairman Kuylen provided an opportunity to revisit any previously discussed applications for those having technical difficulties. No comments were made.

Chairman Kuylen asked the voting Board members to complete all scoring sheets and turn them in to Ms. Pfennig.

Ms. Pfennig noted that there were no conflicts of interest.

Chairman Kuylen listed the seven applications that received less than seven votes for funding which include application numbers: 16-11, 16-8, 16-9, 16-3, 16-4, 16-5, and 16-12.

It was moved by Mr. Moser and seconded by Mr. Bina that the following applications not be forwarded to the Commission for funding:

- 16-11 (B) Salted Lands and Water Inc: Bottineau's Big Four Salted Townships, \$30,697,052
- 16-8 (C) Theodore Roosevelt Medora Foundation: Flood Plain Riparian Habitat Restoration, \$322,300
- 16-9 (C) McLean County Water Resource Board: Fort Mandan and North Dakota 4-H Camp Access Road Improvement Project, \$356,421
- 16-3 (D) North Country Trail Association: North Country Trail Signage Improvement Project, \$51,800
- 16-4 (D) City of Milnor: Storm Lake Wildlife Observation Deck, \$16,270
- 16-5 (D) City of Underwood: Walking/Bike Path, \$24,100
- 16-12 (D) City of Hillsboro: Riverwalk Park and Trail System, \$1,297,915

On a roll call vote, Bina, Dokken, Elkin, Erickson, Godfread, Hutchens, Kuylen, Lies, Moser, Reiersen, Retterath, and Stockdill voted yes, and no one voted nay. The motion carried unanimously.

16-7 (A) Devils Lake Park Board: Creel Bay Dock and Boat Slip Project, \$50,000

It was moved by Mr. Bina and seconded by Mr. Dokken that the Creel Bay Dock and Boat Slip Project, submitted by Devils Lake Park Board be recommended to the Industrial Commission for Outdoor Heritage Fund funding in the amount of \$50,000.

Concern was expressed that access is half a mile away. There was support for more accessibility for canoes, but it was felt that a \$50,000 investment is not needed to launch canoes. This could be viewed more as a place for boats to dock while patronizing the business.

On a roll call vote, Bina, Dokken, Godfread, Hutchens, Kuylen, Reiersen, and Retterath voted yes, and Elkin, Erickson, Lies, Moser, and Stockdill voted nay. The motion carried.

16-10 (A) Sargent County Water Resource District: Silver Lake Dam Improvements, \$ 41,577

It was moved by Mr. Moser and seconded by Mr. Elkin that the Silver Lake Dam Improvements Project, submitted by Sargent County Water Resource District be recommended to the Industrial Commission for Outdoor Heritage Fund funding in the amount of \$41,577.

It was noted that it can be difficult to determine whether or not a project is maintenance.

On a roll call vote, Bina, Dokken, Elkin, Erickson, Godfread, Hutchens, Kuylen, Lies, Moser, Reiersen, Retterath, and Stockdill voted yes. The motion carried unanimously.

16-2 (B) Cass County Soil Conservation District: Cass County Cover Crop Project, \$60,000

It was moved by Ms. Godfread and seconded by Mr. Hutchens that the Cass County Cover Crop Project, submitted by Cass County Soil Conservation District be recommended to the Industrial Commission for Outdoor Heritage Fund funding in the amount of \$60,000. On a roll call vote, Bina, Dokken, Erickson, Godfread, Hutchens, Kuylen, Moser, Reiersen, Retterath, and Stockdill voted yes, and Elkin and Lies voted nay. The motion carried.

16-1 (D) City of Columbus: Columbus Cougar Park, \$8,000

It was moved by Ms. Godfread and seconded by Mr. Hutchens that the Columbus Cougar Park Project, submitted by City of Columbus be recommended to the Industrial Commission for Outdoor Heritage Fund funding in the amount of \$8,000. On a roll call vote, Bina, Dokken, Erickson, Godfread, Hutchens, Kuylen, Lies, Moser, Reiersen, Retterath, and Stockdill voted yes, and Elkin voted nay. The motion carried.

16-6 (D) City of Turtle Lake: Turtle Lake Park, \$6,597

It was moved by Ms. Retterath and seconded by Ms. Stockdill that the Turtle Lake Park Project, submitted by the City of Turtle Lake be recommended to the Industrial Commission for Outdoor Heritage Fund funding in the amount of \$6,597. On a roll call vote, Bina, Godfread, Hutchens, Kuylen, Reiersen, Retterath, and Stockdill voted yes, and Dokken, Elkin, Erickson, Lies, and Moser voted nay. The motion carried.

Administrative Discussion

Mr. Kuylen noted that both sides came to an agreement regarding the Adams County Soil Conservation District Project. In the future, if there is a complaint the protocol is to notify the staff first to determine if it needs to be brought before the board or can be resolved another way.

Ms. Pfennig provided an overview of projects that have received funding from both the Water Commission and OHF as this has been a topic of interest to the Board. An overview of the Century Code regarding OHF was provided, which states the Commission has the authority to require matching funds and/or limit the source of matching funds. Additionally, it is stipulated that General Fund dollars should not be used as matching funds unless specifically authorized by the Legislature. Ms. Pfennig noted that funds from the Water Commission or Game and Fish Department may be considered special funds, even though they are state funds. Century Code regarding the Water Commission states it may not deduct OHF funds from the cost of the project before determining the local cost share, thereby requiring OHF funds to be considered part of the local match.

Policies that have been approved by the Commission are the following:

- Minimum of a 25% match is required
- Indirect costs will not be funded
- Fencing requires a minimum cost share of 40%
- Language must follow NRCS field office guidelines

There are a variety of state funds that are not General Fund dollars. If the Board was interested in devising a match policy, there are some options to consider as follows:

- Require a certain level of local match. It would need to be determined if that would be a requirement for every project or only certain types. It would also need to be clarified as to whether match from local groups and businesses would be considered local match.
- Limiting state funds as a match. Sometimes Federal funds flow through state agencies so it would need to be clarified as to whether those would be considered state or federal funds.

Mr. Moser asked a question regarding an application presented during this grant round where the Water Commission went from a 40% to a 60% match and will there match always be at the 60% level going forward. Ms. Pfennig stated it is her understanding that the Water Commission considers each application separately, so it is likely on a case by case basis.

Mr. Hutchens asked a question as to where the funds come from for the Water Commission. Ms. Pfennig stated the funds come from the Resources Trust Fund, which is a percentage of oil extraction taxes.

Ms. Pfennig noted that at the last meeting, questions had been raised regarding funds awarded to recipients and the rate at which those funds are being spent. An overview was provided regarding how much has been awarded, how much has been reimbursed and how much has been subcontracted. While funds may not have been spent, much of the funds are under contract and the activities are in progress.

Ms. Pfennig reported on the activity since the last meeting. One project has been completed: 003-047, Working Wetlands in North Dakota submitted by Delta Waterfowl. The award was \$1.75 million and \$1.73 million was used with total project costs of \$5.4 million. The project entailed 124 agreements, created 9,568 individual wetlands, and covered over 4,800 acres. While only one project was completed, there was significant activity. OHF has reimbursed \$1.67 million on 28 different projects. Ms. Pfennig stated she expects a lot of projects to close out in June. There were delays caused by the weather and COVID-19.

Ms. Fine thanked everyone for working through the remote meeting process including Ms. Pfennig for getting everyone set-up. She also thanked Ms. Pfennig for her work on the new online grant system, noting that it has received positive feedback.

Mr. Kuylen thanked the staff for their work to transition to a remote meeting and the patience of the Board and meeting participants as we worked through the process.

With no further business, Chairman Kuylen adjourned the meeting at 2:25 p.m.



Robert Kuylen, Chairman



OHF Advisory Board Minutes

Page 10

May 8, 2020

Recording Secretary