



Minutes of Regular Meeting

Board of Managers

Wednesday October 19, 2016, 2016

County Board Room, Carver County Government Center, 7:00 p.m.

Approved November 16, 2016

1. CALL TO ORDER AND ROLL CALL

On Wednesday, October 19, 2016, at 7:00 PM in the County Board Room of the Carver County Government Center, Chaska, Minnesota, President Shirk called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD) and asked for roll call to be taken. The following Managers were present: Managers Jesse Hartmann, Len Kremer, and Yvonne Shirk. In addition, the following were also present: Dan Bowar, EVS Engineering, Gene Sieve, Burns & McDonnell, Della Young, Young Environmental, LLC, John Kolb, Rinke Noonan, Clay Dodd, Patchin, Messner, Dodd & Brumm, Lindsey Albright, Dakota County SWCD and Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator.

2. APPROVAL OF THE AGENDA

Manager Kremer made a motion to approve the agenda of October 19, 2016. The motion was seconded by Manager Hartmann. The motion carried unanimously.

3. CITIZEN FORUM

There were no citizens who wished to address the Board.

4. CONSENT AGENDA

The Consent Agenda included the following items:

A. Approval of Minutes for September 21, 2016 Regular Meeting

B. Approval of Financial Reports

C. Approval of Payment of Invoices

- i. Burns & McDonnell - for January thru July engineering services
- ii. Freshwater Society - for development of model snow & ice policy for cities
- iii. Rinke Noonan - for July & August Legal Services
- iv. Barr Engineering - for July & August services related to Riley Creek feasibility study
- v. Star Tribune - for publication of budget hearing notices
- vi. Naiad Consulting - for July Administrative services & expenses
- vii. Norman Senjem - for preparation letter commenting on Chippewa River WRAPS/TMDL
- viii. Culligan Bottled Water - water for Chaska office
- ix. Steinkraus Development - for September & October 2016 office rent
- x. Time Savers Off Site Secretarial Service - for preparation of August meeting minutes
- xi. US Bank Equipment Finance - October 2016 copier lease payment

D. 2017 Cost Share Program

Manager Kremer made a motion to approve the consent agenda with the removal of 4.F. The motion was seconded by Manager Hartmann. The motion carried unanimously.

5. NEW BUSINESS

A. Burns & McDonnell Presentation

Administrator Loomis introduced Mr. Gene Sieve. Mr. Sieve said he is a Vice President for Burns & McDonnell. He explained the change in the employment status of Della Young and that last month when the Managers were informed of the change Burns & McDonnell were not sure exactly how the new relationship between Burns & McDonnell and Ms. Young would be structured. Mr. Sieve explained there is now a contractual agreement in place between Burns & McDonnell & Ms. Young.

Mr. Sieve answered Manager Kremer's questions about staff support Burns & McDonnell will provide to Ms. Young. Mr. Sieve explained the agreement for engineering services is between the District and Burns & McDonnell and as such the responsibility to the LMRWD lies with Burns & McDonnell. Ms. Young will continue to provide services to the Board as before only as a subcontractor with Burns & McDonnell.

Ms. Young said she has a long history of working with the LMRWD and is honored to be a part of the staff. She explained she has formed her own company and has insurance to cover liability. She says she is confident this arrangement will work seamlessly for the LMRWD.

Manager Kremer said at the last meeting Manager Raby expressed concern about the commitment of Burns & McDonnell to the LMRWD and he agreed with him. He said he feels more confident with the arrangement as explained. Manager Kremer pointed out Ms. Young may be extremely busy because of all the opportunities and he has concerns about how this about her time availability. He asked for more feedback from Burns & McDonnell on a monthly basis on how things are going. Mr. Sieve said he would attend the monthly meetings if the board wanted.

Ms. Young said she has a contractual obligation to the LMRWD as well as a vested interest. She said she will make time for this district and this district is a priority for her.

President Shirk talked about the immediate tasks before the District currently and asked whether this change in status will impact those tasks. Mr. Sieve said he doesn't see any problems with Burns & McDonnell being able to serve the District in the same capacity as before this change.

Manager Kremer asked if the engineering services agreement needs to be modified to recognize the change. Attorney Kolb said the contract does allow for contracted services. He noted Ms. Young could still be the primary contract. He explained that he has reviewed the agreement and how the agreement should be modified. Attorney Kolb commented on the compensation under the new arrangement, which should be cost neutral to the District.

Manager Kremer made a motion to approve legal counsel to prepare revisions to the Engineering services agreement which will address cost neutrality, scope of services and primary contact. The motion was seconded by Manager Hartmann.

Manager Hartmann asked what the timeline is. Attorney Kolb said he will begin to work on the agreement right away. He said the Board can proceed on good faith until next meeting.

The motion carried unanimously.

At this point in the meeting Administrator Loomis suggested that the Board may wish to take items out of order and move some items up in the agenda, in order to accommodate those in attendance intending to make presentations to the Board.

The Board agreed, so the next item discussed was **Item 6. Old Business, A. - Dredge Management, i. - Review process for funding of maintenance of Navigation Channel.**

6. OLD BUSINESS

A. Dredge Management

i. Review Process for funding of maintenance of Navigation Channel

Attorney John Kolb reminded the Board that one year ago, September 16, 2015, the Board adopted a resolution directing the initiation of proceedings to modify the 9' channel project, permanent disposal site acquisition and development, as a basic water management project of the district. In that order, the Board directed staff in a number of different directions. First of all, that the district would undertake proceedings under statute to include the 9' channel permanent disposal sites as a capital improvement of the District. That task has been completed. Next, that the staff investigate the establishment of an assessment based benefits charge to raise revenue for the project under the same statutes. A step in that direction was to find the right consulting firm that had experience in assessing these types of properties, with the intent to determine the benefit derived by these properties from the maintenance of the navigation channel. Attorney Kolb arranged for Managers and staff to meet with Mr. Clay Dodd, Patchin, Messner, Dodd & Brumm, to discuss this project. Managers then asked staff to put together a scope for this project and then bring it to the Board and that is where we are tonight.

Attorney Kolb introduced Mr. Dodd, who then walked Managers through the scope of work presented. He reviewed the scope of his proposal and said the estimated is about \$55,000. He then explained that some of the items on the scope may have already been assembled by the District, which would reduce the cost and the Board may decide to eliminate some of the items. He reviewed what he understands the Board to be looking for.

He explained the different properties he expects to analyze; properties with active barge activity shipping materials in and out, properties with fleeting rights, and properties that are not currently using the navigation channel, but given its position on the river and zoning, may have potential to use the channel in the future. Mr. Dodd noted that there have not been any new uses of the navigation for quite a while. Manager Kremer noted a new slip is being proposed for a new industry in Savage. Mr. Dodd explained one task in the proposal would be for him to identify these properties, but LMRWD may be able to do this, which would further reduce the cost.

Manager Kremer said there is also a recreational benefit and somehow they need to assess what that benefit is. He suggested that the District should take responsibility for costs related to the recreational benefit.

Attorney Kolb clarified that the suggestion is to provide the board with recommendations on properties that see an economic benefit because of the 9-foot channel. Recreation would be a general benefit broadly. Manager Kremer wanted the benefit of navigation to be determined to be a percentage of the benefit of the channel. Attorney Kolb was not sure Mr. Dodd has the capacity to make that kind of determination and that decision would be upon the LMRWD to determine.

Manager Kremer asked about the timeline. Mr. Dodd said if everything moves along they would be looking at the spring. Manager Kremer asked Administrator Loomis asked how

much she can contribute and what the recommended cost is. Administrator Loomis said they have a lot of the information already, but she just saw this scope of work this evening and is not able to make an estimate. Mr. Dodd said the first thing he would do is meet with Administrator Loomis to look at the materials.

Manager Kremer made a motion to approve the study as outlined and a not to exceed number will be provided by the next meeting. The motion was seconded by Manager Hartmann.

President Shirk asked that when the letters are going to the owners to have this information included.

The motion carried unanimously.

Administrator Loomis recommended moving to **Item 6. - OLD BUSINESS, G. - Project Reviews, v. - MAC Hotel Development.** The Board agreed. Administrator Loomis reported that staff has reviewed the proposal and has no concern with the proposal; other than they feel the District should have been involved sooner. Staff feels because the District was not involved earlier in the process there was a missed opportunity to derive some benefit with treatment of storm water.

A. Project Reviews

i. Review Process for funding of maintenance of Navigation Channel

Mr. Bowar provided a summary of the project. He said it is a 12-story hotel located on the site of an old hangar that was removed 6-8 years ago. He noted there are changes to the roadways within the airport. There is also a ramp expansion planned to begin soon. The Hotel will have a skyway connection to Concourse A. MAC had identified a need for a hotel some time ago and is now finally moving ahead with the project.

Mr. Bowar explained Kimley Horn is working on all the surrounding infrastructure project and that all the storm sewer, waste water and roadways are tied into one project. The hotel storm water is tied into the regional storm water system that is the airport. A construction storm water permit has been applied for.

There will be limited parking at the hotel itself. Valet parking will use the existing ramps. Manager Hartmann asked what the brand of the hotel is. Mr. Bowar said the Flag and it is international.

President Shirk asked if the board will need to review the storm water. Ms. Young said yes, but they don't have a full picture yet.

5. NEW BUSINESS

B. Bylaws

Administrator Loomis said she did not hear from anyone that there were any changes. Managers said they did not believe any changes were needed.

Manager Shirk made a motion to approve the board retain the bylaws in the existing form. The motion was seconded by Manager Hartmann. The motion carried unanimously.

C. Upper Post Fort Snelling Hennepin County Road Project

Administrator Loomis explained the whole area is unincorporated. She said they had a meeting with the Hennepin County Public Works and explained the road project the County is planning.

Staff feels redevelopment of the Fort Snelling Upper Post presents the LMRWD with an opportunity to get treatment of storm water in an area where the storm water currently

receives no treatment. Staff would like the Managers to authorize staff to investigate storm water improvements for this area.

Manager Kremer asked if Hennepin County would be helping. Ms. Young said the project does not meet the threshold that would require treatment. That is why staff is recommending the District investigate possible options. Kremer said they need to do something stronger and recommended writing a letter to the county engineer to add storm water management improvements to this project.

Manager Kremer made a motion to direct staff to prepare a letter to the County Engineer requesting the storm water management facilities be added to this project to meet LMRWD {water quality} requirements.

Ms. Young asked for clarification and Manager Kremer said that he means to meet the requirement of no net increase. Manager Hartmann asked what else the District may have as leverage to sway the County. President Shirk said a letter certainly wouldn't hurt.

The motion was seconded by President Shirk and carried unanimously

D. LMRWD 2016 Cost Share Program Application

Administrator Loomis said a resident of Eden Prairie had been referred to the LMRWD Cost Share Program with an idea to plant a native plant buffer around a storm water pond in the middle of a residential home development. She has met with the homeowners and received an application. This pond drains directly into a city storm water facility directly adjacent to the Minnesota River. She explained to the Managers that the LMRWD did not receive any applications for projects in 2015 or 2016.

Manager Kremer made a motion to approve the LMRWD 2016 Cost Share Program Application with the addition of \$300-\$400 and prepare a success story for the paper.

Manager Hartmann asked how many homes are in this project. Administrator Loomis said there are 14 homes directly around the pond and there are home across the street from the home on the pond which all drain to this one area.

The motion was seconded by Manager Hartmann. The motion carried unanimously.

E. Kelly Farm Wetland Delineation

Administrator Loomis said the City of Bloomington had a wetland delineation done on the Kelly Farm. She gave a brief description of the property in question. It had been five years since one was done, so the city wanted to update the delineation. She noted there is not a proposal before the city right now. Comments are due by the 21st. She would like to recommend working with them and other partners to protect as much natural resources as they can. Administrator Loomis said it is a good area for a native restoration project and to work with the city on a vision for the area. She noted Hennepin County is interested in participating also.

President Shirk said she is in favor of having staff work with the city as this property develops. Other Managers concurred.

Manager Kremer noted the stream is not classified as a trout stream. He said they should find out why the DNR is not classifying as a trout stream.

Manager Kremer stated he feels one of the failures of the regulatory agencies; including the district, has been the deterioration of the trout streams along the river. Valuable resources have been adversely affected because those charged with responsibility for protecting those resources have not taken the responsibility for the resources.

Administrator Loomis said she will consider this direction to staff.

F. MAWD 2016 Annual Conference

- G. Administrator Loomis said at the September meeting the Board suggested that staff prepare a resolution and submit it to the MAWD resolution committee. She asked the Board to adopt resolution 16-08.

President Shirk approved Resolution 16-08 requesting watershed districts be established in all the major watersheds in the MN basin. The motion was seconded by Manager Hartmann. The motion carried unanimously.

Administrator Loomis asked the Board to appoint delegates. Manager Hartmann said he can make Saturday. President Shirk said she can make Friday and Saturday.

Manager Kremer said all the resolutions that are none controversial will be adopted on Friday. Attorney Kolb suggested appointing President Shirk as the primary and Manager Hartmann as the alternate.

6. OLD BUSINESS

A. Dredge Management

i. Review Process for funding of maintenance of Navigation Channel

This item was taken out of order and discussion appears in the order it was considered at the meeting.

ii. Vernon Avenue Dredge Material Management site

Administrator Loomis said there was a question about dredging at the last meeting and she said she has spoken with the Corps of Engineers and they will probably not be dredging this year due to high water. She is working to get information from Rachel Contracting regarding the amount of material removed from the site.

iii. Private Dredge Material Placement

Administrator Loomis said she has requested information from LS Marine regarding the amount of private material placed on the site this summer. As soon as she received that information, invoices will be sent for the private dredge material placement.

Attorney Kolb is updating the license agreements for placement of private material.

iv. Estimated Cost of Dredge Management Operations

Administrator Loomis said an updated task order has been provided to the Board. President Shirk asked if the timeline changed. Ms. Young said the timeline did not change, as the Board directed staff to go ahead and begin the work, while the task order was being updated.

Manager Kremer said they also talked about including in the potential future cost there may be a need to add a site. Ms. Young said that was part of the original scope of work when the task order was put together.

Manager Hartmann made a motion to approve the updated task order for determining probable future cost of dredge operations. The motion was seconded by Manager Kremer. The motion carried unanimously.

B. Watershed Management Plan

i. Plan clarification/review process

Administrator Loomis said an Appendix P, to the Plan, was provided to the Board. Appendix P contains the standards of the LMRWD consolidated into one document. She reminded the Managers that they had seen the Appendix at the September meeting, but staff was working a project review process to send to the cities with the plan clarification. The review process was provided to the Board with the meeting packet.

President Shirk asked if 45 days for review is consistent with other agencies that review plans. Administrator Loomis said she believes that it is. The Administrator's concern is that if approval must come to the Board for approval and they meet only once a month, it would be difficult to get review any quicker.

President Shirk made a motion to approve the Appendix P , the review process and authorize distribution to the cities. The motion was seconded by Manager Hartmann. The motion carried unanimously.

ii. Plan update/major amendment

Administrator Loomis reminded Managers that the TAC recommended the LMRWD begin an update to its plan to conform with the timing of adjacent Watershed Management Organizations.

At the September meeting Managers requested staff prepare a major amendment rather than a plan update. One concern Administrator Loomis had was if the LMRWD prepared a major plan amendment, its update would be due in 2021. She said she has discussed this with legal counsel who recommended that when approval of the major plan amendment is requested from BWSR that the LMRWD request an extension of the plan. Staff consulted BWSR about the possibility of an extension. Ms. Young said she spoke with Steve Christopher, Board Conservationist at BWSR, and that they would be willing to extend the date of the LMRWD plan depending on changes contained in the amendment and as long as the outreach component of the plan amendment was robust. Manager Kremer asked what the date would be. Ms. Young stated it would be 10 years from the date of the approval of the amendment, so 2015/2016.

A task order for a major amendment for the plan was provided to the Board.

President Shirk made a motion to approve the scope of work for the major plan amendment to the watershed management plan. The motion was seconded by Manager Kremer. The motion carried unanimously.

iii. South Metro Mississippi River Total Suspended Solids TMDL

Administrator Loomis explained she had asked Mr. Norm Senjem to review the Local Government Water Roundtable White Paper, before beginning to look at how the TMDL might be implemented. She said Mr. Senjem has spoken to the Lake Pepin Legacy about this and will likely include their concerns in his recommendation.

Administrator Loomis has also spoken to Rylee Main of the Lake Pepin Legacy Alliance about working together on the project with Freshwater. Ms. Main said she appreciated comments the LMRWD made on the Chippewa River WRAPS about assurance of performance.

iv. Meetings with cities

Nothing new to report.

C. Legislative Action

i. 2017 Legislative Session

Administrator Loomis said has remained in contact with Mr. Ron Harnack and they are waiting for outcome of the election before beginning work on the LMRWD legislative issues.

ii. Freshwater Society

Administrator Loomis commented on the meeting at the Happy Gnome to present the model developed by the Department of Agriculture and Dr. Peter Wilcock. The model was distributed to everyone in attendance and examples were given about how the model worked. Manager Kremer attended the meeting and provided his take on the model. His comment is that the model only addresses the problem of sedimentation and not other pollutants of concern.

His concern is that it doesn't get anything done, but it is the most sophisticated model currently out there.

Ms Young provided her perspective on the model, as she attended the meeting also. She had questions about the robustness of the inputs into the model. She feels this could be a very useful tool to present to policy makers.

D. Website Redesign

Administrator Loomis said she just received the survey results back. The website redesign is proceeding.

E. Education and Outreach Plan

i. Metro Children's Water Festival

Administrator Loomis said she has received all sorts of thank you notes. She said the event was very well attended and she felt the class she escorted learned a lot and found it educational/.

ii. Citizen Advisory Committee

No change since last update. Managers discussed recruiting a Manager from Carver County.

F. LMRWD Projects

i. Riley Creek Cooperative Project

Administrator Loomis said she has received the draft feasibility report which will be presented to the Managers at the November meeting. The cost of the recommended option is about \$300,000 to address the LMRWD portion.

ii. Seminary Fen ravine stabilization project

Administrator Loomis said she is still waiting for construction costs from Chaska.

iii. Analysis of Dakota County Project

Administrator Loomis said a proposal from Burns & McDonnell will be further refined before coming to the Managers. She is also trying to get the DNR to work with the LMRWD to develop management plans for the fens.

iv. Bluff Creek Cooperative Project

Administrator Loomis provided a brief history of this project. The city has been able to acquire easements necessary for construction, so Riley/Purgatory/Bluff Creek Watershed District is ready for agreements to be executed between all the partners. A cooperative agreement should be coming in the next couple months.

v. East Chaska Creek

Administrator Loomis said there is nothing new to report.

G. Project Reviews

Administrator Loomis provided the Managers with information about a tour of the Black Dog Plant, she is working to schedule and will inform Managers with the information once she has definite dates and times.

i. MMPA (Minnesota Municipal Power Agency) Electric Generation Plant

Administrator Loomis reported the LMRWD has received an EAW for a new electric generation plant in Chaska. She showed Managers the location in Chaska.

Engineers for the LMRWD are reviewing the EAW.

ii. Kraemer Mining

Administrator Loomis said a proposal was received from Kraemer Mining wanting to consolidate the wash buildings. The proposal does not indicate there will be any additional water appropriation, but given its proximity to Nichols Fen, she thought the District should request a review of Kraemer Mining's water appropriation permit.

She noted comments were submitted to the city of Burnsville. She noted the LMRWD received the proposal on October 4th and comments were due on October 7th. The District did let the city know this amount of time was not adequate to conduct a review and provide comments.

iii. Hennepin County Flying Cloud Drive/CSAH 61 reconstruction project

Administrator Loomis said they are trying to get the documents and will hopefully bring this to the November meeting.

iv. 2014-03152-RMM - Port Richards

Administrator Loomis said nothing more has been heard. No responses to our comments have been received.

v. MAC Hotel Development

Administrator Loomis noted this was discussed earlier.

vi. Cavallo Ridge, Eden Prairie

Administrator Loomis reported she has visited the site and the home the District objected to, is under construction.

She said the LMRWD was made aware of another project in this subdivision. The project is not a new structure, but is a landscaping project for an existing home. The LMRWD standards were provided and the project was discussed with. Staff has not heard anymore since.

vii. CSAH 61 & TH 41 Transportation Improvement Project

Administrator Loomis informed the Managers that the LMRWD was given notice of a meeting one hour before the meeting was scheduled to begin. Staff will be contacting the MN/Dot Project Manager to let them know how disappointed the District is with this process.

Administrator Loomis reported she received notice of an open house for a project in Scott County for Highways 169 & 41. Staff has not had time to review anything for this project.

Manager Hartmann asked about a Highway 41 project. Administrator Loomis reported that this project was place on hold, because of alignment issues.

President Shirk asked about the MCES lift station project in Chaska. Administrator Loomis said she would check on the project.

viii. Savage Fen Ravine Project

No change since last update.

H. Dean Lake - no change since last update

I. MPCA Soil Reference Values

Administrator Loomis said revised rules were just released for comment. She will check with other agencies to see what they will be commenting.

J. Set future meeting dates

President Shirk thought dates had been set at the September meeting. Administrator Loomis said if it was, it was not on the recording of the meeting. President Shirk checked her calendar and said it shows the December meeting on the 14th. The regular meeting date in November is the 16th. And the January meeting date will be the 4th.

President Shirk made a motion to set the December meeting date to Wednesday December 14th and the January meeting to Wednesday, January 4th. Manager Hartmann seconded the motion. The motion carried unanimously.

8. COMMUNICATIONS

A. Administrator Report - Administrator Loomis reported the Minnesota River Congress will be November 17, in Mankato. She also reported that she received notice the MPCA is planning to hold a Professional Judgment Meeting on Monday October 31st to discuss the impairments of the MN River.

B. President - No report

C. Commissioners - No report

D. Committees - No report

E. Legal Counsel - No report

F. Engineer - No report

9. ADJOURN

Manager Hartmann made a motion to adjourn. Manager Kremer seconded the motion. Hearing no objections President Shirk adjourned the meeting at 9:02pm.

Jesse Hartmann, Vice President

Attest:

Linda Loomis, Administrator