



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, July 17, 2019

Carver County Government Center, 602 East 4th Street, Chaska, MN 7:00 p.m.

Approved September 18, 2019

1. CALL TO ORDER AND ROLL CALL

On Wednesday, July 17, 2019, at 7:00 PM in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Hartmann 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: Manager David Raby, Manager Adam Frey and President Jesse Hartmann. In addition, the following were also present: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, Technical Consultant; Lindsey Albright, Dakota County SWCD; Bruce Loney, Prior Lake/Spring Lake Watershed District; and Scott Sparlin, Coalition for a Clean Minnesota River and MN River Congress;

2. APPROVAL OF THE AGENDA

Administrator Loomis asked to remove the minutes of the June 19, 2019 meeting from the agenda.

Manager Raby had a question on the audit report. Manager Raby asked if staff has any idea how long it will take to resolve the issue with the audit. Administrator Loomis suggested removing the report from the consent agenda and there could be a discussion of this item in its normal sequence on the agenda.

Manager Raby made a motion to approve the Agenda, as amended. The motion was seconded by President Hartmann. The motion carried unanimously.

3. CITIZEN FORUM

There were no citizens who wished to address the board on non-agenda items.

4. CONSENT AGENDA

President Hartmann introduced the item.

~~A. Approve Minutes June 19, 2019 Regular Meetings~~

B. Receive and file June 2019 Financial reports

C. Approval of Invoices for payment

- i. Frenette Legislative Advisors - - May 2019 lobbying services
- ii. Metro Sales, Inc. - payment for copier maintenance
- iii. Rinke Noonan Attorneys at Law - April 2019 legal services
- iv. Braun Intertech Corp. - for February & April 2019 inclinometer readings

- v. **Freshwater Society - Sponsorship of February Road Salt Symposium & 2019 Water Summit**
 - vi. **Naiad Consulting, LLC - February and April 2019 Administrative Services & Expenses**
 - vii. **Young Environmental Consulting Group, LLC - May 2019 Technical Services**
- D. 2018 Audit report update**
- E. Receive and File letter from the City of Eagan regarding Draft Rules**

President Hartmann made a motion to approve the Consent Agenda, with the deletion of the June 2019 minutes and the removal of Item 4. D. - 2018 Audit report update. The motion was seconded by Manager Frey. The motion carried unanimously.

4.D. 2018 Audit Report Update

Administrator Loomis said she has spoken with the Auditor, who suggested the LMRWD ask for another extension. (The LMRWD received an extension to August 15, 2019 for filing its 2018 audit)

If the LMRWD does not receive the second half of the grant funds from BWSR for the Seminary Fen Ravine Stabilization, then the District will have to write off the receivable. Additionally, she said that LMRWD legal counsel recommends that the board pay forward the money owed to the City of Chaska. The Auditor said writing off the grant and paying the City will reflect poorly on the 2018 Audit Report.

The Administrator informed the Board of the terms in the cooperative agreement between the City and the LMRWD, that states cost overruns for the project would be split 50/50. She is not sure that this would qualify as a cost overrun. Manager Raby asked if the City has written a letter to BWSR. Administrator Loomis said they have not. She asked if they would like to sign on to the letter to BWSR and the City declined, because the Grant Agreement is between the LMRWD and BWSR.

Manager Raby asked what is involved in filing for an extension. Administrator Loomis said it is fairly simple - the LMRWD contacts them and requests an extension. She noted they also have to get an extension from BWSR. Manager Raby suggested we should file for an extension. He asked what happens if an extension is not granted? And if we can't get the extension before the 15th the LMRWD will then have to write it off.

Staff will request and additional extension.

5. NEW BUSINESS

A. Burnsville Landfill

Administrator Loomis said a Supplemental Environmental Impact Statement is being prepared for the Burnsville Landfill. She reminded the Board that Lisa Frenette was asked to follow this issue at the Legislature on behalf of the LMRWD. Ms. Frenette suggested that the LMRWD have legal counsel draft a letter to the MPCA asking why they have not taken any action to clean up the Freeway Landfill.

The City of Burnsville claims the request to increase capacity at the Burnsville Landfill is being driven by the Freeway Landfill. The City has implied that Burnsville Landfill must be expanded in order to get Freeway Landfill cleaned up. President Hartmann clarified Freeway is closed. Administrator Loomis said it is closed and under the VIC (Voluntary Investigation and Clean-up) Program.

Manager Raby questioned why the MPCA has not proceeded. He said the letter is a good idea and to write it from the standpoint of why clean up is so important.

The board provided direction to staff.

6. OLD BUSINESS

A. 2020 Proposed Budget

Administrator Loomis said she provided hard copies of the budget for the Board.

Manager Raby asked about Scott County. He noted they were surprised that the market value in Scott County was more than Hennepin County. Administrator Loomis said it has flip-flopped this year. She said a mistake was made in 2018 when the LMRWD certified the levy to Scott County. The levy for the entire district was certified to Scott County. Administrator Loomis talked about how this will be taken care of.

Administrator Loomis said the board agreed to keep the levy at \$725,000. She said she is concerned about the dredge project and making sure the LMRWD has enough money available to pay for the construction costs. She said paying for the dredge project will be tight. She said she would feel more comfortable putting additional money in the budget for the nine-foot channel.

Administrator Loomis explained the overhead costs of the district are allocated across the different funds by percentages. She recommended the percentage for the channel fund be changed to 15%. The additional percentage should be charged to the 509 plan. She said this is more reflective of the amount of time spent on the two responsibilities of the District.

Manager Raby asked for staff to clarify the funding of the dredge site project. The estimated cost provided by the engineers is about \$1.5M. Staff said they are trying to get a more accurate number and have reached out to LS Marine. Staff said they would have more information available in August. The Board said that by increasing the levy to \$800,000 that it should cover the project.

Bruce Loney asked about the Prior Lake Outlet Channel project shown in the LMRWD budget. Administrator Loomis said there is a proposal to do a project with the City of Shakopee to slow the flow of water down in a segment of the Prior Lake Outlet Channel, in order to reduce nutrients and sediment to Dean Lake. The LMRWD and the City received a grant under the Metro area Watershed Based Funding for this project and it will likely be constructed in 2020.

B. MN River Congress Request

Scott Sparlin provided an overview of his proposal to achieve an increase in water storage in the MN River Basin. He said there has been action on this proposal already. He has spoken to Representatives Jeff Brand and Paul Torkelson and they support both this project. There is a sponsor in the State Senate. He is now seeking letters of support for this initiative to create more storage in the MN River Basin.

President Hartmann asked what feedback Mr. Sparlin has received from the farming community. Mr. Sparlin listed some of the organizations he has contacted and responses he has received. He said there will have to be a significant amount of payments get more storage and that payments will have to reflect the land values. The flexibility of the initiative will be the strongpoint. Mr. Sparlin explained the three tiers to this proposal for perpetual water storage. He pointed out that the program would be voluntary and he is hoping to be able to get federal funding once the State puts a program in place.

Manager Raby clarified the funding request and said it looks like the total is \$6,500.

Administrator Loomis said the work plans goes from this year to 2021. Mr. Sparlin said the total is \$10,000 and it is cumulative.

Manager Raby asked if other money has been raised. Mr. Sparlin said they have raised about \$3,000 for this effort and they will continue to seek additional funding.

Administrator Loomis asked if it would be easier for Mr. Sparlin to raise money if there were a match. The board discussed contributing funds as matching funds. Manager Raby said he would be comfortable matching up to \$5,000 each year. Manager Raby asked if this was in the LMRWD budget. Administrator Loomis said that funding was in the budget for a different project in the MN River Basin that could be redirected to this project. Mr. Sparlin said a match would help and he mentioned some of the groups that he is speaking to about supporting this initiative.

Mr. Sparlin asked for an endorsement letter saying the LMRWD board is in support of seeking funding from the state of MN to create a significant water storage program.

Manager Raby made a motion to agree to match up to \$5,000 in 2019 and 2020 based upon a 1 to 1 match and write a letter of endorsement. The motion was seconded by President Hartmann. The motion carried unanimously.

Manager Hartmann asked where the water comes from for irrigation. Mr. Sparlin said groundwater wells, but there are a few permits that do come from tributaries.

Manager Frey asked if Mr. Sparlin has spoken to Ducks Unlimited. Mr. Sparlin said that is in progress. Manager Frey said he thinks there would a lot of support for this proposal from the hunting community if the proposal will increase habitat.

Manager Raby asked that the LMRWD submit a resolution to MAWD.

C. Remote meeting participation

Administrator Loomis said this is for the Board's information. Manager Raby asked if there was schedule to complete. Administrator Loomis said there was not a schedule. She said she will ask for a timeframe.

D. Dredge Management

i. Review Process for funding of maintenance of Navigation Channel

Administrator Loomis said she received communication from MNDOT that attorneys for MNDOT do not believe the LMRWD qualifies for funding under the Port Development Assistance Program. She and Lisa Frenette are arranging a meeting with Patrick Phenow, Navigation Director for MNDOT.

ii. Vernon Avenue Dredge Material Management site

Administrator Loomis said the hearing for the amendment to the Conditional Use Permit (CUP) is tomorrow night. Manager Raby said it looks like the condition for removing material when there is a flood was not being removed from the permit. Ms. Della Young stated that the site is being designed so that there will be no rise in the flood elevation. The city has received a no rise certification from LMRWD engineers and the CUP will be worded so that removal of material from the site will not be necessary.

The condition that a three day notice be given to the City when material is being removed from the dredge site will be removed from the CUP.

iii. Private Dredge Material Placement

Private slips have not yet been dredged. Last year's material is in the process of being removed.

E. Watershed Management Plan

Administrator Loomis said there is going to be another Technical Advisory Committee (TAC) meeting to discuss all the comments and explain the intent of the LMRWD in adopting rules. The TAC meeting is scheduled at 1:00pm on August 13th at the Shakopee Library.

Ms. Young talked about the general permit and explained the feedback that the LMRWD has received from the city. She said that staff will revise the rules to make them more understandable and then walk the TAC through the changes. She said the confusion of the cities is the reason that the city of Eagan sent the letter asking for more time to review the rules that was received and filed by the Board at this meeting.

Manager Raby asked how long the LMRWD will be delaying receipt of comments. Administrator Loomis said that the LMRWD should be able to work with the Cities and revise the rules and then be able to bring the rules to the Board at the August or September meeting for authorization to submit the rules for agency review. Manager Raby thought a response should be drafted to the City of Eagan.

F. 2019 Legislative Action

No new information to report.

G. Education and Outreach Plan

No new information to report.

H. LMRWD Projects

(only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)

I. Local Water Management Plan Reviews

i. City of Shakopee

The LMRWD has not received a response from Shakopee to the LMRWD comments.

J. Project/Plan Reviews

(only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)

K. MPCA Soil Reference Values - no change since last update

No new information since last update.

7. COMMUNICATIONS

A. Administrator Report: Administrator Loomis commented on the Mississippi River dam disposition study. She said that the reason she is bringing this to the attention of the Board is because the LMRWD previously commented on the proposal; asking if there is any information about the impact to the mouth of the MN River.

She reported that the MPCA currently has released four TMDL/WRAPS studies for comment. The comment period begins July 22nd and ends September 20th. She reported that the LMRWD has already seen the Minnesota River/Greater Blue Earth TSS TMDL and met with the MPCA to give them feedback. She said the MPCA asked to partner on the MN River Tour the LMRWD is holding with the Savage Chamber of Commerce on the 28th of August.

She reported the US Army Corps of Engineers has completed the MN River Minnesota River Basin Integrated Watershed Study. Administrator Loomis has not been able to see it yet although it has been released to its partners. She reminded the Board that the Corps asked about spin-off studies from this study. She said that given the water levels this year that there may be a case to have a spin-off study to look at flood risks and what impact the sediment loading to the lower MN River valley having on the flood elevations.

At the June meeting the Board had mentioned that they were not sure Carver County was reporting the correct amount of per diem paid to Managers at year end. She said she had provided a report from Carver County that showed what had been reported. He said the report is confusing because the amounts are broken down in the report differently than per meeting. Manager Raby reported that he thinks the mileage and expenses have been included in the amount reported.

Invasive Carp has been found by the DNR in the Mississippi and Minnesota Rivers. A link to the report from the DNR was forwarded to the Managers.

A link was included to the latest newsletter from the Upper Mississippi Waterway Association.

She reported that legal counsel reviewed the cooperative agreement for the Riley Creek Project and did not see anything that concerned him. Legal counsel asked that the LMRWD technical consultant review the project to make sure the project meets LMRWD goals. Young Environmental is conducting the review

The 60% design for East Chaska Creek is complete and staff will be setting up a meeting with the city to allow them to review the design and comment.

The GAP analysis is just about complete for the Dakota County fen project and work will begin shortly on the relevés.

The City of Carver asked the LMRWD to meet to discuss improving the city's levee so that it can be certified by the Corps of Engineers and FEMA

The report for the Geomorphic Assessment is being written. The interns were not able to access all the streams because of the high water.

The LMRWD received an EAW from MAC for an infill project on Concourse G and a MNDOT project has been submitted to the LMRWD for TH 5 near the airport.

Staff met with MNDOT on the I-494 project from TH 169 to the MN River and the latest design from MNDOT for the project will not require any additional storage in the floodplain.

Managers were provided an estimate of the cost to stabilize a ravine that the City of Shakopee intends to use to fix the drainage problem from the Amazon Fulfillment Center. Manager Raby asked why the engineering costs are so high. There was discussion about how the estimate was put together to determine how much the LMRWD could justify providing to the City of Shakopee for the project.

B. President: No report

C. Managers: Manager Raby asked if there was any information about what is going on at CH Robinson. Administrator Loomis said no, the city has not provided any information to the District.

Manager Raby reported on the Metro MAWD meeting. He noted the dues structure will be staying the same and that items on the MAWD legislative agenda (establishment of a Minnesota River Basin Commission) that concern the LMRWD have been placed in what they call a "parking lot", meaning that MAWD will not actively lobby for this.

D. Committees: No report

E. Legal Counsel: No Report

F. Engineer: No report

8. ADJOURN

President Hartmann made a motion to adjourn. Manager Frey seconded the motion. The meeting was adjourned at 8:42pm. The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, August 21, 2019 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN.

Dave Raby, Secretary

Attest:

Linda Loomis, Administrator