



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Monday, January 7, 2019

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

Approved February 20, 2019

#### 1. CALL TO ORDER AND ROLL CALL

On Monday, January 7, 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: Managers Adam Frey, David Raby 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; John Kolb, Rinke Noonan Attorneys at Law, Legal Consultant; Lindsey Albright, Dakota SWCD; Emily Javens, MAWD (Minnesota Association of Watershed Districts), Ruth Schaefer, Manager Middle Fork Crow Watershed District and MAWD Board President, Mary Texer, Manager, Capitol Region Watershed District and Director, MAWD Board of Directors; and Greg Genz, UMWA (Upper Mississippi Waterway Association) and Taylor Luke, LS Marine.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis requested the addition of Item 4. G. - Authorize Preparation of the 2018 Annual Report. Manager Raby noted the December 19, 2018 meeting minutes were in the meeting packet, but were not on the agenda.

Manager Raby asked a question about a possible typo in the Financial Services Agreement between the LMRWD and Carver County. He noted the hourly rate contained in the agreement states 2017 and 2018. Administrator Loomis noted it was an error, because the term of the Agreement is for two years and includes 2018 and 2019.

**Manager Raby made a motion to approve the Consent 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. Legal Counsel noted that the previous motion to approve the Consent agenda was taken out of order. Attorney Kolb recommended that the Board consider the previous motion as also approving the agenda.

**A. Approve Minutes September 17, 2018, October 24, 2018, November 19, 2018 and December 19, 2018 Regular Meetings**

- B. Receive and file Financial Report - December 2018 financial reports were not presented as information was not available because of the early date of this month's meeting**
- C. Presentation of Invoices for payment**
  - i. Patchin Messner Dodd & Brumm - work performed related to public hearing in the matter of the 9-foot channel**
  - ii. Scott County SWCD - Q3 2018 monitoring services**
  - iii. Naiad Consulting, LLC - October 2018 Administrative Service & expenses**
  - iv. Rinke Noonan - October 2018 legal services**
  - v. Time Savers Offsite Secretarial - preparation of October 2018 meeting minutes**
  - vi. Daniel Hron - January 2019 office rent**
  - vii. Young Environmental Consulting Group, LLC - November 2018 Technical Services**
  - viii. Metro Sales - payment on maintenance agreement for copier**
  - ix. Carver County Finance Department - Q4 Financial Services**
- D. Authorize Amendment to Administrative Service Agreement**
- E. Designation of 2019 official newspaper**
- F. Designation of Official Depository**
- G. Authorize Preparation of 2018 Annual Report**

**5. NEW BUSINESS**

**A. Discussion with members of MAWD Board of Directors**

Administrator Loomis introduced Emily Javens, Executive Director of MAWD, Ruth Schaefer, President of the MAWD Board of Directors, Mary Texer, Director on the MAWD Board and Jan Voit, Administrator, Heron Lake Watershed District. Administrator Loomis stated the representatives from MAWD were invited to the meeting by the LMRWD Board because of concerns over the MAWD dues and other issues.

Manager Raby asked what watershed district the MAWD Directors represented; President Schaefer stated she was from the Middle Fork Crow WD and Ms. Texer noted she was on the Cap Region Board of Managers.

President Hartmann invited the MAWD representatives to come forward to speak. The LMRWD Board expressed concern over the increase in the dues and felt that the formula used to calculate dues is inequitable for the level of service the LMRWD receives from MAWD. Manager Raby said the dues were raised substantially. He does not think that the LMRWD gets that much back in services from MAWD. He said he was under the impression that MAWD had formed a committee to revisit the formula.

President Schaefer said she was not aware that the MAWD Board had made a commitment to revisit the dues formula. She said that the MAWD Board felt the dues structure should be left in place for a couple of years to see if it works out before changing the formula. President Schaefer and Director Texer asked what service does the LMRWD Board want.

Manager Raby asked them to justify the increase in the dues. He said the LMRWD doesn't believe they benefit at all from MAWD lobbying. The LMRWD has a separate lobbyist they pay. He said that the LMRWD has requested MAWD support for legislation that it thinks is important and has not received MAWD support. He feels that out state Districts pay less in dues and he feels they benefit more from MAWD lobbying. He feels this is not fair to LMRWD constituents.

President Schaefer noted that out state districts have levy limits so that they pay a higher percentage of their levy in dues. She said she feels the MAWD addresses metro concerns as well as non-metro concerns equally. She asked what Manager Raby thought would be a more

equitable way to calculate dues. Manager Raby said he hadn't given it much thought, because he was under the impression that MAWD had a committee that was looking at it.

President Schaefer said watershed districts are represented by a regional representative on the MAWD Board. The LMRWD Board asked who the regional representative for the LMRWD was. Director Texer stated she was the LMRWD representative and she invited the Board to participate in Metro MAWD and provided information about the next Metro MAWD meeting.

President Schaefer said that if the MAWD Board received a proposal for an alternate dues structure they would look at it, but the organization feels it is settled, until they are able to evaluate whether or not they are receiving the revenue they need to cover expenses and to build a reserve.

Emily Javens added that an alternate dues structure was presented to the MAWD Board and was reviewed by the Finance Committee. The Finance Committee looked at the proposal and made a recommendation to the MAWD Board to leave the dues structures as is and see how things are after a few years and then re-evaluate. She explained that Water Management Organizations (WMOs) are being invited to join MAWD, so a dues structure for WMOs will need to be determined so that it is equitable with the Watershed Districts. She two WMOs have joined at a rate of \$500. Manager Raby said if they are to look at a structure for WMOs that would be an opportunity to re-evaluate the entire dues structure.

Manager Raby asked if the proposal for dues was communicated to all the members. Ms. Javens said it was not, it went to the MAWD Board, the Finance Committee and the District Administrators and that all three groups felt the proposal would not work.

Ms. Javens said in response to Manager Raby's concern about the rural watershed districts receiving more in services, that rural district complain that the metro gets more benefits. She said they try to balance the concerns of rural and metro and they are committed to make sure all are getting issued worked on. Director Texer commented that MAWD is divided into three regions and that each region has three representatives. Manager Raby asked what the distribution of dues is among the three regions.

Ms. Javens said MAWD could perhaps do a better job of communicating what it is doing to its members.

President Hartmann clarified that WMO's can join right now. He asked if there is a goal of how much revenue needs to be brought in. President Schaefer said there a number of expenses that must be covered and they are now trying to create a type of reserve.

Manager Raby commented on the complaint the MAWD Board received regarding speakers on the river tour and asked about how the comments received were handled. Ms. Javens said she shared the comments with the speakers. Manager Raby expressed concern over the way the complaint was handled by MAWD. She is at a loss as to what she could have done differently. She sincerely apologized for any offense, since it seemed she has offended the LMRWD. Manager Raby said it wasn't the complaint itself, it was more about the process and the LMRWD board should have been given a copy of the letter and told that the speakers were being contacted. Administrator Loomis said it appeared that MAWD was picking sides over the issue raised in the complaint.

Ms. Texer encouraged the board to come to Metro MAWD.

Manager Raby asked if the MAWD regional reps reach out to district within their region. Director Texer said that they do through Metro MAWD.

Manager Raby asked if there are minutes of the Metro MAWD meetings. Director Texer said the minutes are sent to the managers. Ms. Javens said all the materials are available on the MAWD website.

President Hartmann thanked the President Schaefer, Director Texer, Ms. Javens and Ms. Voit for attending the meeting and answering their questions.

## **6. OLD BUSINESS**

### **A. Dredge Management**

#### **i. Review Process for funding of maintenance of Navigation Channel**

Manager Raby commented on the funding and said maybe the District could interest a reporter in developing a series article about the history and benefit of the navigation channel and issues to keep it navigable..

Attorney Kolb said he had a conversation with Becca Martin from Cargill and talked about the possibility about creating some publicity. Attorney Kolb also suggested using MPR to make the public more aware of the value of river navigation.

Administrator Loomis said they do have a contact at the Star Tribune she can contact.

Manager Raby suggested that staff work with Cargill to come up with some ideas.

Manager Raby felt this would be a worthwhile effort. Della Young mentioned that it is important to note that education about the channel is in the watershed plan.

Administrator Loomis said the Board needs to determine how much it wants the State to appropriate to the District.

#### **ii. Vernon Avenue Dredge Material Management site**

Administrator Loomis said she had provided an agreement between the LMRWD and the site operations manager. She said that the managers should review the agreement and then be ready to approve it at the February meeting

#### **iii. Private Dredge Material Placement**

No information to report other than what was included in the Executive Summary.

### **B. Watershed Management Plan**

Administrator Loomis said staff has a rough draft of rules and a final draft will be ready later this month. She said the rules would come to the Board for review in February and staff would ask for approval in March and authorize sending the rules out for comment. Attorney Kolb stated that rules have a 45-day comment period. Administrator Loomis then said the rules could be ready for adoption in May.

### **C. 2019 Legislative Action**

Administrator Loomis had nothing new to report.

### **D. Education and Outreach Plan**

No new information since last update

### **E. LMRWD Projects**

#### **i. Eden Prairie Area #3 Stabilization**

No information to report other than what was included in the Executive Summary.

#### **ii. Riley Creek Cooperative Project with Riley/Purgatory/Bluff Creek WD**

No information to report other than what was included in the Executive Summary.

**iii. Seminary Fen ravine stabilization project**

No information to report other than what was included in the Executive Summary.

**iv. East Chaska Creek (Carver County Watershed Based Funding)**

Administrator Loomis said the feasibility report needs to be approved by the Board and authorize the design phase

Manager Raby asked about the maintenance recommendations and clarified those would be the city's responsibility and the structural would be the district's responsibility. Staff said that is correct

Manager Raby noted the costs are not significantly different that the original. The total with the contingency is \$182,900. President Hartmann asked some specific questions about the project.

Manager Raby asked if the Board authorizes moving forward with the design phase, is the next step getting a contract to the Board? Ms. Young explained that she would work with Barr Engineering to put together a scope of work with more information about the exact cost to do the project. It is the intent of staff to get the design done and the project complete this year.

Staff is meeting with the City of Chaska tomorrow.

**President Hartmann made a motion to authorize the design phase of the East Chaska Creek project. The motion was seconded by Manager Frey. The motion carried unanimously.**

**v. Schroeder Acres Park (Scott County Watershed Based Funding)**

No information to report other than what was included in the Executive Summary.

**vi. Shakopee Downtown BMP Retrofit (Scott County Watershed Based Funding)**

No information to report other than what was included in the Executive Summary.

**vii. PLOC ( Prior Lake Outlet Channel) Restoration (Scott County Watershed Based Funding)**

No information to report other than what was included in the Executive Summary.

**viii. Dakota County Fen Gap Analysis and Conceptual Model (Dakota County Watershed Based Funding)**

No information to report other than what was included in the Executive Summary.

**ix. Hennepin County Chloride Project (Hennepin County Watershed Based Funding)**

No information to report other than what was included in the Executive Summary.

**x. Vegetation Management Plan**

No information to report other than what was included in the Executive Summary.

**xi. Sustainable Lake Management Plan - Trout Lakes**

No information to report other than what was included in the Executive Summary.

**xii. Geomorphic Assessment of Trout Streams**

No information to report other than what was included in the Executive Summary.

**xiii. Spring Creek Cost Share**

No information to report other than what was included in the Executive Summary.

**F. Project/Plan Reviews**

Administrator Loomis reported on two projects that Manager Raby had brought to the attention of the District: the trail overlook south of Flying Cloud Drive at Charlson and a planned expansion at C. H. Robinson.

The LMRWD determined that C. H. Robinson is within the LMRWD and contacted the City of Eden Prairie's Planning department. The District received plans from the City today and will review them. Any concerns, staff has will be relayed to the City. This project is planned to go before the Eden Prairie City Council.

The trail overlook was managed through the City of Eden Prairie's Park department. Administrator Loomis contacted the Parks Department and received information regarding the project. After review of the information she determined that the project did not trigger any of the thresholds of the LMRWD's Steep Slope Overlay District standards.

- i. City of Burnsville - Burnsville Sanitary Landfill**  
No information to report other than what was included in the Executive Summary.
- ii. City of Carver - Local Surface Water Management Plan**  
No information to report other than what was included in the Executive Summary.
- iii. City of Eden Prairie - Peterson Wetland Bank**  
No information to report other than what was included in the Executive Summary.
- iv. City of Chanhassen - TH 101 Improvements**  
Manager Hartmann asked about erosion events staff had mentioned. Administrator Loomis said that in 2014 there were some significant slope failure in the vicinity of this project. Ms. Young noted that a site walk is scheduled and the city and consultant were to provide pictures to the LMRWD. Administrator Loomis detailed the slope failures that the LMRWD is aware of.
- v. City of Savage - 12113 Lynn Avenue**  
No information to report other than what was included in the Executive Summary.
- vi. Cities of Richfield/Bloomington - TH 77 & 77th Street underpass**  
No information to report other than what was included in the Executive Summary.
- vii. MNDOT - I494 Brush removal**  
No information to report other than what was included in the Executive Summary.
- viii. MNDOT - TH 5 Signage projects**  
No information to report other than what was included in the Executive Summary.
- ix. MPCA - MN River TSS TMDL**  
No information to report other than what was included in the Executive Summary.
- x. MN Valley State Trail - EAW (Environmental Assessment Worksheet)**  
No information to report other than what was included in the Executive Summary.
- xi. Hennepin County - CSAH 61 - Flying Cloud Drive**  
Manager Raby asked if any of the recommendations were provided to the contractor for this project. Administrator Loomis said she has not received spoken to the contractor, but she has been in touch with the city and has not received any feedback from the city.
- xii. MNDOT - I494/TH 5/TH 55 Mill & Overlay project**  
No information to report other than what was included in the Executive Summary.

- xiii. **MNDOT - I35W Bridge Replacement**  
No information to report other than what was included in the Executive Summary.
  - xiv. **MNDOT - I494 from TH169 to Minnesota River**  
No information to report other than what was included in the Executive Summary.
  - xv. **City of Shakopee - Amazon Fulfillment Center drainage**  
No information to report other than what was included in the Executive Summary.
  - xvi. **MAC/LMRWD/MCWD boundary realignment**  
No information to report other than what was included in the Executive Summary.
  - xvii. **Fort Snelling - Dominion Housing**  
No information to report other than what was included in the Executive Summary.
  - xviii. **USACOE/USFWS - Bass Ponds, Marsh & Wetland**  
No information to report other than what was included in the Executive Summary.
- G. MPCA Soil Reference Values - no change since last update**  
No new information since last update.

**7. COMMUNICATIONS**

- A. Administrator Report:** Administrator Loomis noted the report was on the website.
- B. President:** No report
- C. Managers:** No report
- D. Committees:** No report
- E. Legal Counsel:** Attorney John Kolb provided information to the Board regarding a clarification on participation in board meetings remotely. He said an advisory opinion was issued by the Department of Administration on December 28th. He wanted to make sure the Board was aware of this in the event they would like to include Board members in meetings when they are out of town. This is an option that is available as long as all the requirements are met. Manager Raby said he would like to see the LMRWD investigate how to make this happen. Attorney Kolb said he would forward the opinion to the Administrator for distribution to the Board.
- F. Engineer:** No report

**8. ADJOURN**

**President Hartmann made a motion to adjourn. Manager Frey seconded the motion. The meeting was adjourned at 8:09pm. The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, February 20, 2019 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN.**

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Dave Raby, Secretary

Attest:

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Linda Loomis, Administrator