



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, May 20, 2020

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

Approved June 17, 2020

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

On Wednesday May 20, 2020, at 7:00 PM, 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 meeting was convened on-line due to a declaration of a peacetime emergency by Governor Walz. The following Managers were present: Manager Adam Frey, Manager Dave Raby President Jesse Hartmann. In addition, the following joined the meeting: 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 Counsel; Lisa Frenette, Frenette Legislative Advisors, lobbyist for the LMRWD; Jennifer Gora, Metropolitan Airport Commission; Charley Howley, Prior Lake/Spring Lake Watershed District; and Lindsey Albright, Dakota County Soil & Water Conservation District.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis said she had no additions or corrections to the Agenda.

Manager Raby clarified the approval for the meeting minutes should be for April, not March. He said the financials should also be for April. It was noted that the printed agenda was incorrect; however the agenda on-line was correct.

**Manager Raby made a motion to approve the Agenda. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

#### 3. CITIZEN FORUM

Administrator Loomis said she had not received any communications from anyone that wished to address the Board.

#### 4. CONSENT AGENDA

President Hartmann introduced the item.

##### A. Approve Minutes of the April 19, 2020 Regular Meeting

##### B. Receive and file April 2020 Financial reports

##### C. Approval of Invoices for payment

- i. Liberty Mutual Insurance Company - annual payment for surety bond
- ii. Frenette Legislative Advisors - for April 2020 lobbying services
- iii. Rinke Noonan Attorneys at Law - for March 2020 legal services

- iv. **Star Tribune - for public hearing legal notice publication**
- v. **TimeSaver Off Site Secretarial Service - for preparation of February meeting minutes**
- vi. **HDR Engineering, Inc. - for website maintenance and development of rules pages**
- vii. **Naiad Consulting, LLC - for January, February and March 2020 administrative services, mileage and expenses**
- viii. **Young Environmental Consulting Group - for March 2020 technical services**

**Manager Raby made a motion to approve the Consent Agenda. The motion was seconded by Manager Frey. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

## **5. NEW BUSINESS**

### **A. Metropolitan Airport Commission presentation**

Jennifer Gora updated the Board with construction projects that are scheduled to be done in 2020 at the Minneapolis/St. Paul Airport. She showed a map of the airport and explained the work that is planned. She noted that information was also provided on construction projects planned for Flying Cloud Airport.

President Hartmann asked if there was only one runway at Flying Cloud. Ms. Gora said there are two parallel runways that go east to west.

The Board thanked Ms. Gora for her time and the information.

### **B. MAWD Dues**

Administrator Loomis asked the Board to authorize payment of the MAWD dues.

Manager Raby said he is still very concerned with the fact that MAWD continues to extend the \$500 dues to WMOs. He said at this point he is fine going ahead.

President Hartmann Felt that he didn't think there was much alternative. He asked how the dues are paid. Administrator Loomis said she puts in a claim request for a check with Carver County. Carver County then sends a check to MAWD.

**Manager Raby made a motion to approve paying the MAWD Dues for 2020. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

### **C. Larson 2020 Cost Share Application - 1033 Sunny Ridge Drive, Carver**

Administrator Loomis said this application is for a rain garden. The cost is \$5,878 so the request is for \$2,500 which is the maximum amount under a cost share program. The raingarden is planned to divert water from the street to a low area of the yard.

Manager Raby said there is no breakdown at all to the costs. He would like to see more detail. The other concern he has is whether or not the plants are approved. Administrator Loomis said they are using plants approved for rain gardens and that a sketch was included.

**Manager Raby made a motion to table the Larson 2020 Cost Share Application to the June meeting and that more information regarding costs and plant material be provided. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

## 6. OLD BUSINESS

### A. City of Carver Levee

Administrator Loomis said she doesn't have any information to add other than what was reported in the executive summary.

Manager Raby asked if the any of the information discussed with the city improved the rating to determine at what level the LMRWD should participate in sharing the cost of the project. Administrator Loomis said some of the points the city made did improve the rating and others were not convincing. She did note that there are points that the city could make that would improve the rating, but were not made. She said LMRWD staff will continue to work with the City.

Administrator Loomis noted someone from Chaska is possibly interested in joining the board.

### B. Remote meeting participation

No new information to report since last update.

### C. Dredge Management

#### i. Vernon Avenue Dredge Material Management site

Administrator Loomis reported that staff met with the terminal operators. They asked for a date by which that they needed to have their material removed for the site. Material must be removed in order for construction to proceed. She said that Della Young is checking with technical consultants to determine a date.

#### ii. Private Dredge Material Placement

Administrator Loomis said that all the barge slips have been dredged and material placed on the Vernon Avenue site to dewater.

### D. Watershed Management Plan

Administrator Loomis said a fee scheduled was shared with the Board at the April meeting. The item is on the agenda this month for Board approval. Attorney Kolb said that fees can be charged immediately on a case by case basis. He said the District established its authority to charge an inspection and permit fee in the rules and the Watershed Management Plan which have been adopted. He recommended that a fee be charged regardless of timing of receipt of a project.

The Board clarified what the fees were for. Administrator Loomis explained that this is the fee that is charged for the District to review a project for compliance with the LMRWD rules. She said that right now none of the cities have been approved for a municipal permit and therefore the LMRWD is reviewing every project.

**Manager Raby made a motion to approve the fee schedule as presented. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

Attorney Kolb advised that it may be beneficial to make a motion to apply the fee schedule to the Chaska project that was received before adoption of the schedule.

**Manager Raby made a motion to apply the fee schedule to the City of Chaska project that came in prior to the adoption. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**E. 2020 Legislative Action**

Administrator Loomis reported that the Legislature adjourned on Monday without much happening. Lisa Frenette, lobbyist for the LMRWD, reported that the Senate and the House could not come to an agreement on the "Clean Car Rule" and therefore an Environmental bill went down. She has been talking to legislators and its likely there will be a special session.

She said there weren't a lot of issues that affected watershed districts. She said she has been working with Representative Torkelson and Senator Webber on legislation to start a pilot project to hold water back in the Upper Minnesota to reduce sediment flow. Because of the economic crisis that the State is in right now there was no money for it, but it is the start of something for water management organizations to begin thinking about.

Ms. Frenette has been looking at cuts that have been proposed to State funding to determine the affects of cuts on watersheds and the LMRWD. She said 14 to 17% across the board cuts have been proposed. She thinks bigger cuts will come in future years if there is not a good economic recovery. Agencies are looking to cut projects and programs rather than staff to maintain capacity. She has been working closely with MAWD to convince agencies to maintain funding to programs and projects. MAWD feels that programs and projects are more important than capacity. MAWD, Minnesota Association of Counties and the Association of Soil & Water Conservation Districts are looking to draft a united letter to that effect. All three groups working together will make more of an impact.

She noted she is still working on the grant money lost from BWSR.

The Board thanked Ms. Frenette for her report.

**F. Education and Outreach Plan**

No information to report since last update.

**G. LMRWD Projects**

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

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

Administrator Loomis reported that two memos were in the meeting packet on this project. She noted the first memo was from January and it had some recommendations for the District. She noted that Young Environmental pulled together estimated costs for the recommendations. She noted the second memo was prepared after staff made a field inspection of the area. She noted that the LMRWD has levied \$110,000 to be applied toward this area and has not spent much of that. Mostly just for the annual reading of the inclinometers;

President Hartmann noted that the first four recommendations amounted to approximately \$15,000. Manager Raby said he would personally not go forward with item v. of the projects. He said he could be convinced that the first four should proceed. President Hartmann said he thought the first four would give the District more information about what is going on hydrologically in the area.

Della Young said that was exactly right, the recommendations were listed in order of least cost and each one will inform the next recommendation. President Hartmann asked how the District gets the city of Eden Prairie to contribute to the project.

Manager Raby said they should check with the City of Eden Prairie about sharing the costs of these recommendations.

**Manager Raby made a motion to approve i, ii, iii and iv with the stipulation that the City be approached to share in the cost (he noted he would be willing to proceed with i, ii, iii and iv without the City's participation). The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**ii. Gully Inventory and Conditions Assessment**

Administrator Loomis said in 2007 the LMRWD worked with the MN Conservation Corps to conduct an inventory of gullies and ravines within the District. Since erosion problems have been seen more recently staff thought it is time to update the inventory. A work plan was shared with the board.

She noted there are some areas that will be difficult to access and that drones would be used to assess those areas. President Hartmann asked how drone inspection would be done. Ms. Young said they would contract with a drone pilot. This project would have to be done in the fall or spring when there are no leaves on the trees. Administrator Loomis noted the District has been setting money aside to be used to address work on these gullies that will be used for this project.

**President Hartmann made a motion to approve the Gully work plan and authorize implementation. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**iii. 2020 Trout Stream Gap Analysis & Long Term Strategic Management Plan**

Administrator Loomis said this project is a continuation of the geomorphic assessment done by the LMRWD in 2019. This phase would look at the data that has been collected regarding the trout streams. President Hartmann asked about the cost. Ms. Young said the cost is \$42,000 - \$49,500.

Manager Raby asked if interns would be used. Ms. Young said they would be partially using interns.

**Manager Raby made a motion to approve the Trout Stream Gap Analysis. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**H. Project/Plan Reviews**

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

**iv. Peterson Farms, LLC Road Maintenance Review (Permit No. 2020\_100)**

Administrator Loomis said this is an application to repair an access to several parcels on the river flats south of Flying Cloud Drive in Carver County. She noted the applicant is looking to place fill in the floodplain in order to access the parcels. She noted that the applicant was not asked to prepare a no rise evaluation because the project is a repair of an existing condition

Ms. Young noted this is the first project to use the online permit application process.

**Manager Raby made a motion to approve the Person Farms, LLC application. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**v. Regional Rail Authority**

Administrator Loomis said the Hennepin County Regional Railroad Authority owns this trail. An area of the trail in Chanhassen washed out in 2014 and has been closed since then. It is now being repaired. Staff has reviewed the project and requested that a maintenance agreement be prepared and executed. The maintenance agreement was reviewed by legal counsel and execution of the contract is being recommended.

**Manager Raby made a motion to approve the agreement. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**vi. 565 Lakota Lane, Chanhassen, variance request**

Administrator Loomis said this project is requesting a variance from the city's ordinance for a septic system. The request is to relocate the septic from the backyard to the side yard, away from the bluff. She noted the District requested to know where the tank will be before to determine whether or not the new location is in the steep slope overlay zone.

President Hartmann asked if they have an existing septic. Administrator Loomis said she thought they did. She noted that Charley Howley, the Public Works Director for the City of Chanhassen, was on the line and might be willing to provide more information on this project. Mr. Howley said he reviewed this and they do have an existing tank on the back of the house. Attorney Kolb said that as long as the septic tanks are not located within the steep slope zone there is no variance needed from LMRWD rules. This is strictly a variance from city ordinance. Ms. Young said the District's concern is that when reviewing the project it was difficult to tell if the tanks were located within the steep slope overly zone.

Administrator Loomis noted that this property is in the same ravine system that is contributing sediment to the box culvert on Flying Cloud Drive that has been a topic of previous discussions by the Board. She noted that this is also the same system that two residential slope failures occurred in 2014 and the HCRRRA trail. She said this is a very active area.

**vii. Structures, Inc., Chaska**

Administrator Loomis said this is for a development of a property in Chaska. She said the LMRWD reviewed the project and one of the concerns is there is a 17 year old existing storm water pond on the site. The project is not in a steep slope overlay zone or a high value resource area. The City noted that there has not been any significant maintenance to the existing pond since its construction. She noted it was on the tonight's agenda, because staff hoped that it would be able to be approved it at the meeting; however staff did not get the information needed in time to recommend approval.

Administrator Loomis noted staff is meeting with the applicant and the City tomorrow morning. The City has approved the project and feels that it can't meet the LMRWD volume control standard because of the geology of the site. The City did not require any alternative BMPs to meet the LMRWD standards. The City does not have a Municipal Permit from the District and therefore projects need to apply to the District for a permit.

Ms. Young said staff wanted to make sure the fee schedule is applied to this project.

Administrator Loomis expressed concern over the City's implementation of LMRWD standards, since the standard for volume control did not change with the most recent Plan.

Administrator Loomis noted the Board does not need to take any action.

**I. MPCA Soil Reference Values - no change since last update**

No new information since last update.

**7. COMMUNICATIONS**

**A. Administrator Report:** Administrator Loomis reported that the 2019 financial audit was just completed and that the Auditor conducted the exit interview with her today. She asked the Board if they wanted to have Redpath come to the next Board meeting to walk through the audit and if paper copies of the audit were desired. The board asked for electronic copies. Manager Raby asked if they really need to have a presentation. Administrator Loomis noted there was a significant finding, but she is not sure if it will stay in the report after the conversation today. She recommended that they have someone come this year since they did not have anyone come last year. She said they could just do a walk through the report.

Administrator Loomis reported that a captain from Upper River Services noticed an unusual flow of water from Gun Club Lake into the MN River, which was reported to the DNR. The DNR sent inspectors to check it out and discovered that the beavers had dammed the normal outlet of Gun Club Lake and that water found another outlet.

Administrator Loomis said President Hartmann was reappointed by Scott County. Attorney Kolb recommended that President sign the oath of office and the Bond, which can be read into the record at the next Board meeting.

Lower MN River South Watershed Based Funding held its second meeting this morning. The group is still working on developing priorities.

**B. Managers:** Manager Raby noted that he is back in Minnesota.

**C. Committees:** No report

**D. Legal Counsel:** Attorney Kolb said the Board should think about how to conduct meetings once the District's regular meeting space opens up and we transition back into face to face meetings.

**E. Engineer:** No report

**8. ADJOURN**

**President Hartmann adjourned the meeting at 8:38pm. Manager Raby seconded the motion. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.**

**The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, June 17, 2020 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

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Dave Raby, Secretary

Attest:

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Linda Loomis, Administrator