



Minutes of Regular Meeting
Board of Managers
Wednesday February 21, 2018
City Council Chambers, Chaska City Hall, 7:00 p.m.
Approved April 18, 2018

1. CALL TO ORDER AND ROLL CALL

On Wednesday, February 21, 2018, at 7:00 PM in the Council Chambers of the Chaska City Hall, 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: President Yvonne Shirk and Manager Jesse Hartmann. In addition, the following were also present: Scott Pederson and Bryce Fossand, MNDOT; Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; John Kolb, Rinke Noonan, Legal Counsel; Della Schall Young, Young Environmental Consulting Group, LLC, Technical Consultant; Lindsey Albright, Dakota County SWCD; Taylor Luke, LS Marine; Marianne Breitbach, Manager, Prior Lake Spring Lake Watershed District.

2. APPROVAL OF THE AGENDA

President Shirk moved approval of the agenda. Manager Hartmann seconded the motion, which carried unanimously.

3. CITIZEN FORUM

Marianne Breitbach, a manager from the Prior Lake Spring Lake Watershed District introduced herself. She wanted to update the LMRWD board with a couple of projects she thought might be of interest to the Board. She said the sediment delta that impacts Dean's Lake is finished now, with seeding to be done in the spring. The PLSLWD received bids for the Outlet Channel restoration of damage caused by the 2014 flood. She said the bid has been awarded and construction will start in March 2018 and completion is expected by the end of July. She said this project is being completed with FEMA money and they are awaiting approval from FEMA for a more natural restoration, rather than riprap.

President Shirk asked if this project is the last of the restoration projects after the 2014 flood. Ms. Breitbach said that it was.

4. CONSENT AGENDA

The Consent Agenda included the following items:

- A. Approval of Minutes for January 8, 2018 Regular Meeting**
- B. Approval of Financial Reports**
- C. Presentation of Invoices for payment**

- i. **MN Department of Revenue - 2017 sales tax on sale of dredge material**
- ii. **Manager Raby & President Shirk - payment of 2nd half 2017 per diem, mileage & expenses**
- iii. **Time Saver Off Site Secretarial - preparation of November 2018 meeting minutes**
- iv. **Braun Intertech - 2017 inclinometer reading**
- v. **Burns & McDonnell - November 2017 engineering services**
- vi. **Culligan Bottled Water - bottled water for office**
- vii. **Pace Analytical Services - testing Ike's Creek samples for chloride**
- viii. **Patchin Messner Dodd & Brumm - final payment for Determination of Special Benefits report**
- ix. **Steinkraus Development - February 2018 office rent**
- x. **US Bank Equipment Finance - copier rental**
- xi. **Carver Soil & Water Conservation District - 2017 Cost Share project**
- xii. **Naiad Consulting - November 2017 Administrative services, mileage & expenses**

President Shirk made a motion to approve the consent agenda as amended. The motion was seconded by Manager Hartmann. The motion carried unanimously.

5. NEW BUSINESS/PRESENTATIONS

A. I 35W Bridge replacement presentation by MNDOT

Mr. Scott Pederson, of MNDOT talked about the bridge replacement over the river. The scope is to start at Cliff road, reconstruction the pavement, construct walls on the east and west side and replace pavement. The truck passing lane will be extended. There will also be shoulder added to the roadway. Between Cliff and Black Dog Road is below the 100 year flood level elevation so that section of the roadway will be raised to 2 feet above the 100 year flood elevation. The north end of the project will extend to 106th Street in Bloomington.

Mr. Pederson reviewed the schedule. He said they are working through the environmental document. The RFP was released on 2/18 as a design build procurement process and construction should start in July/August 2018 with completion anticipated through the 2021 construction season. All the funding is in place and there is no local participation requested.

Mr. Pederson said traffic will be maintained throughout the construction. He talked anticipated ramp closures. He explained the public input process and showed the trail alignment and renderings of design elements that will be included in the project. He explained the water quality treatment plans, which will all be on the north side of the river. He said contaminated soils on the south side of the river make it inappropriate to place water quality treatment ponds on the south side of the river.

He explained the plans for the 106th Street/35W Improvements. MNDOT received municipal consent from both Bloomington and Burnsville.

President Shirk asked about replacing the bridge on Cliff Road. Mr. Pederson said work is needed on TH 13 and also need to work on the pavement surface on 35W. So a project will be developed to address all three of those in 2024-2026. He said that there is a lot of work to be done with the Cliff Road Bridge that will need to be coordinated with the city's redevelopment plans and the railroad.

Manager Hartmann asked about the number of lanes that the completed roadway will have. Mr. Pederson said there will be 4 north bound and 4 south bound lanes. They hope that this will relieve some of the congestion. Mr. Pederson explained that they try to balance the funds across all the projects.

Attorney Kolb asked about the increase in impervious surfaces. Mr. Bryce Fossand said the increase will be 6.4 acres. Attorney Kolb then asked about if there is any concern about the ability to meet the volume requirements given the soil contamination, cultural heritage sites and constrained right-of-way. Mr. Fossand said that consultants are looking at that.

Ms. Della Young commented that the city of Burnsville will require a conditional use permit. She had assumed that the CUP had been granted and it had not, so she will need to update the memo that was in front of the Managers tonight. President clarified that Ms. Young had done a preliminary review. Ms Young confirmed that she had.

Mr. Pederson explained how the design build process works and that if the design changes all the permitting agencies will be asked to review changes made during the design build process.

President Shirk thanked Mr. Pederson and Mr. Fossand.

B. Metro-Area Watershed Based Funding Pilot Program

Administrator Loomis said had informed managers of this new program BWSR is proposing to fund projects in the Metro area. This is a 2-year pilot program and BWSR will be looking for feedback as this project moves forward. She said she has provided information about this pilot program to the board and that each county is looking for the board to authorize a representative from the LMRWD to provide input.

President Shirk made a motion to authorize Administrator Loomis to attend the county meetings and bring any recommendations back to the board. The motion was seconded by Manager Hartmann. The motion carried unanimously.

Manager Hartmann asked what the timeline is. Administrator Loomis said each county's plans have to be submitted to BWSR by June 30 and once a grant is provided the District will have 3 years to complete a project.

6. OLD BUSINESS

A. Dredge Management

i. Review Process for funding of maintenance of Navigation Channel

Attorney Kolb reminded the Board that Clay Dodd presented his findings regarding property based benefits attributable to the dredge management project. This was in furtherance of proceedings initiated by the Board under 103B.605 to revise the dredge project to allow for the possibility of a combination of both ad valorem taxes and benefitted land assessments related to the costs of dredge management. The District has also received some state money related to that function as well. The process moving forward, should the Board choose to continue, would be to take the current plan, the current operating plan and the improvement plan for the facility, along with a description and an estimate of annual operating cost or lifetime cost broken down by year, to the Board of Water and Soil Resources (BWSR) and the Department of Natural Resources (DNR) for review and comment. When their review and comment comes back, would be to notice and conduct a final hearing. At which time the Board could make a decision as to whether to move forward as the Board has with current authorities with ad valorem taxes to make up any difference between the funding the state might provide and the actual cost of dredge management or to add in a component of benefitted land assessment based on the recommendation of Mr. Dodd after his analysis. The vision of the Board at the beginning of this process was to open up the authority to be able to do some benefitted lands assessments in addition to current ad valorem. In talking to Ms. Young about what the annualized cost look like and what moneys may be available from outside the district from the state if the current bonding money were to be continued or

renewed after it is exhausted, assessing benefitted properties may never come to fruition based on the flow of state money. Attorney Kolb thinks it is best that the District have this mechanism in place, as there is no guarantee what a future legislature may do in terms of providing funding for this purpose. He asked the Board to direct Ms. Young to pull the information together to submit the project plan to BWSR and the DNR for review. This is a formality of the statute that is required before the District proceeds to the next step.

President Shirk asked Attorney Kolb if this process gives the Board the option to assess, it does not mean that the Board is going to assess. Attorney Kolb said that is correct, this is opening up that authority. In order to open up that authority, the District needs to go through these proceedings to make the determination of benefits attributable to the project, but that the District would only assess if it needs to. So future policy discussions would likely be: 1) do you just as the District has been doing and keep it all ad valorem, 2) do you use a combination of ad valorem and benefitted lands assessment and if so, what is the percent allocation between the two, or 3) do it all as benefitted lands assessment. Until we get to the end point and see some numbers of what that actually looks like the Board is left without all the information they need to make a good judgment.

Manager Hartmann made a motion to authorize Young Environmental Consulting Group to assemble the materials related to the project and to submit them to BWSR and the DNR for review and comment. The motion was seconded by President Shirk. The motion carried unanimously.

President Shirk commented that she is glad the Board is not being asked to make a decision tonight, because she feels like the Board is a long way from that. Attorney Kolb said that is why the District has been very deliberate about the process and seeking out the assistance of a professional appraiser to look at the value issues. Staff will keep this project on pace and have a workshop with the Managers before a final hearing to ask what unanswered question they may have, what unanswered concerns they may have, so that staff can assemble that and give them the best decision making information we can provide ahead of the public hearing.

ii. Vernon Avenue Dredge Material Management site

Administrator Loomis said there is an agreement for the scope of service and cost estimate from Barr Engineering to provide a no-rise evaluation for the site. She talked about the flood plain modeling and noted it was completed in 2004. She said staff is investigating whether or not the model needs to be updated. She said that no action is needed on this tonight, but it was more for the Board's information

President Shirk made a motion to approve the agreement for no-rise evaluation for the Vernon Avenue dredge site. The motion was seconded by Manager Hartmann. The motion carried unanimously.

She advised the Managers that she has received a survey of the site from Rachel Contracting, taken after Rachel was finished removing material.

iii. Private Dredge Material Placement

Administrator Loomis said there probably won't be any reports until June.

B. Watershed Management Plan

Administrator Loomis said a Technical Advisory Committee (TAC) was held and the revised Bluff and Steep Slope Standard received a good reception. She said TAC members were asked to provide comments on the revised Standard to the District by Friday. She said the District

received comments from the DNR, USFWS, Met Council, Chaska, Savage, Bloomington and Burnsville. She said staff has met with the cities of Savage and the Burnsville subsequent to the TAC meeting. She said the DNR & USFWS felt the revised standard did not provide protection to the bluffs and steep slopes as the original language. They were disappointed with the change. The cities were more comfortable with the change and think it is workable. Burnsville expressed concern over how they would implement the standard.

Some of the public information meetings have been held and attendance was less than staff expected. Most people wanted to look at the maps and see how their properties would be impacted.

Staff is still planning for an April public hearing. Ms. Della Young noted that BWSR asked for clarification on two points; 1) the DNR has asked for an additional public hearing and that the legislature has requested information about the bluff standards. She noted that staff clarified with the DNR that the public hearing was continued and the continued hearing has not yet been held. She noted that BWSR has been given the requested information to share with the legislature. Administrator Loomis said she has kept our lobbyist aware of this.

Administrator Loomis asked about Ike's Creek and whether or not the Board would like it to be a high value resource. She noted that the DNR did not designate it as a trout stream. She said one of the reasons cited by the DNR for its decision is that the creek has protection under the LMRWD Watershed Management Plan. She asked the Managers to consider how they would like to see it represented in the plan. She said it could be called out on a sub-watershed basis similar to Eagle Creek.

President Shirk asked how it would be accomplished. Staff said it would appear on a map in the plan as a high value resource. Manager Hartmann asked about the City of Bloomington's position that the surrounding property would be undevelopable if the District made the Creek a high value resource. Ms. Young noted there are additional standards that have to be met and the City of Bloomington sent a letter on why they don't want Ike's Creek to be designated as a trout stream. She also noted how the area would be managed if the District were to designate the Creek as a high value resource. She said the standard for the high value resources is not restrictive. The thresholds for review are lower than areas not designated as high value resources and there are some other restrictions such as those regarding infiltration.

Administrator Loomis noted that staff is not asking for a decision this evening, but just wanted to make the Board aware of this so they could give it some thought before a decision is needed.

C. 2018 Legislative Action

Administrator Loomis said at the January meeting staff was authorized to put together an agreement. Lisa has filed to be a lobbyist for the District and has begun work. The agreement is being worked out.

D. Website Redesign

Administrator Loomis said the website is not live yet. An agreement to the contract for the services for the website redesign is presented for the Managers to authorize. It also includes ongoing site maintenance.

E. Education and Outreach Plan

i. Education and Outreach Coordinator

Administrator Loomis said the RFP was sent out for the Coordinator as part of the Engineering RFP.

President Shirk made a motion to move approval for the amendment to the contract. The motion was seconded by Manager Hartmann. The motion carried unanimously.

ii. Friends of the MN River Valley/LMRWD cooperative project

No new information since last update

iii. Citizen Advisory Committee

No new information since last update

F. LMRWD Projects

i. Eden Prairie Area #3 Stabilization

No information other than what was reported in the Executive Summary.

ii. Riley Creek Cooperative Project/Hennepin County Flying Cloud Drive/CSAH 61 reconstruction project

Administrator Loomis said this project has started at Riley Creek and she has not received an update of the status of our project.

iii. Floodplain Lake Coring Project with Freshwater Society

Manager Hartmann described collecting core samples

iv. Seminary Fen ravine stabilization project

No information other than what was reported in the Executive Summary.

v. Analysis of Dakota County Groundwater Project

No information other than what was reported in the Executive Summary.

vi. East Chaska Creek/ CSAH 61 & TH 41 Transportation Improvement Project

No information other than what was reported in the Executive Summary.

vii. Savage Fen Ravine Project

No information other than what was reported in the Executive Summary.

G. Project Reviews

Manager Hartmann asked about the status of the TH 169/TH41 Interchange project. Staff has not received any information about this since the open house in October 2016. Staff reported that the design of the overpass has been selected. The new interchange will be a double cross-over diamond, with TH 41 passing over TH 169.

i. Hennepin County - Bloomington Road

No information other than what was reported in the Executive Summary.

ii. Metro Transit - Orange Line BRT - 98th Street Station

No information other than what was reported in the Executive Summary.

iii. City of Bloomington - Local Surface Water Management Plan

No information other than what was reported in the Executive Summary.

iv. City of Chaska - Local Surface Water Management Plan Amendment

No information other than what was reported in the Executive Summary.

v. City of Chanhassen - Comprehensive Plan/Local Water Management Plan

No information other than what was reported in the Executive Summary.

vi. City of Lilydale Local Water Management Plan Amendment

No information other than what was reported in the Executive Summary.

- vii. **Hennepin County - HCRRRA Bluff Creek Project**
No information other than what was reported in the Executive Summary.
- viii. **City of Burnsville - Xcel Energy Black Dog Plant**
No information other than what was reported in the Executive Summary.
- ix. **MNDOT - I35W Bridge replacement**
See discussion under New Business 5.A.

H. MPCA Soil Reference Values - no change since last update
No new information since last update.

I. LMRWD/RPBCWD Boundary changes
Administrator Loomis said a notice was put out and people have 90 days to comment on the proposed boundary changes between the LMRWD and RPBCWD.

7. COMMUNICATIONS

- A. Administrator Report:** Administrator Loomis provided a copy of her report, since it was not sent out with the packet.
- B. President:** No report
- C. Managers:** No report.
- D. Committees:** No report
- E. Legal Counsel:** Attorney Kolb reported on legislation moving through the MN Legislature, regarding managers ability to participate meetings remotely.
- F. Engineer:** No report

8. ADJOURN

President Shirk made a motion to adjourn. Manager Raby seconded the motion. The meeting was adjourned at 8:23 PM.

Dave Raby, Secretary

Attest:

Linda Loomis, Administrator