



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, February 17, 2021

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

Approved April 21, 2021

1. CALL TO ORDER AND ROLL CALL

On Wednesday, February 17, 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). The meeting was convened on-line due to the health emergency created by the COVID-19 pandemic.

President Hartmann asked for roll call to be taken. The following Managers were present: Manager Adam Frey, President Jesse Hartmann, Manager Dave Raby, and Manager Lauren Salvato. In addition, the following joined the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, and Jen Dullum, Young Environmental Consulting Group, LLC (YECG), Technical Consultant; John Kolb, Rinke Noonan, Attorneys at Law, Legal Counsel; Lindsey Albright, Dakota County Soil & Water Conservation District; Steve Pany, Manager, Prior Lake Spring Lake Watershed District; Judy Berglund, Craig Diederichs, and Greg Genz.

2. APPROVAL OF THE AGENDA

Administrator Loomis said she had an addition to the agenda. She had forgotten to add sponsorship for the 2021 Salt Symposium to be held August 3, & 4, 2021. She suggested that it be added as Item 4. I. of the Consent Agenda, if the Board did not object.

President Hartmann made a motion to approve the Agenda with the Addition of Item 4. I. - Salt Symposium sponsorship to the Consent Agenda. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

3. CITIZEN FORUM

Administrator Loomis reported that she had not received communication from anyone that wished to address the Board.

4. CONSENT AGENDA

President Hartmann introduced the item. Administrator Loomis reported that Manager Salvato had contacted her prior to the meeting to report an error in the January meeting minutes. Administrator Loomis reported that the error had been corrected. The minutes noted Manager Salvato was not in attendance for the first vote taken at the meeting. She was in fact in attendance.

Manager Salvato asked about the Data Management project. Administrator Loomis explained that this was a project to gather all the LMRWD files in one place. Storage would be in the cloud, so that they could be accessed by anyone the District wished to share files with.

President Hartmann asked if the files would be encrypted. Administrator Loomis explained that files would be password protected and only the District would be able to allow someone access.

- A. Approve Minutes January 20, 2021 Regular Meeting**
- B. Receive and January 2021 Financial reports**
- C. Approval of Invoices for payment**
 - i. **Scott County SWCD - Q3 2020 monitoring & technical assistance**
 - ii. **State of Minnesota - Publication of RFP for Area #3**
 - iii. **Daniel Hron - February 2021 office rent**
 - iv. **Rinke Noonan, Attorneys at Law - December 2020 legal services**
 - v. **US Bank Equipment Finance - February 2021 payment on copier lease**
 - vi. **HDR Engineering, Inc. - Website maintenance & technical assistance**
 - vii. **Naiad Consulting, LLC - October , November & December 2020 administrative services & expenses**
 - viii. **TimeSaver Off Site Secretarial - Preparation of December 2020 meeting minutes**
 - ix. **Young Environmental Consulting Group - December 2020 technical, education & outreach services**
- D. Authorize execution of Joint Powers Agreement Between the Dakota County SWCD and the LMRWD for 2021 Technical Assistance Services**
- E. Authorize letter to MAWD regarding dues membership**
- F. Approve Internal Controls Policy dated February 17, 2021**
- G. Authorize amendment to Professional Services Agreement between LMRWD and DRB Consulting, LLC**
- H. Authorize execution of Intergovernmental Agreement between the Metropolitan Council and the LMRWD and Authorize execution of Pass-through Funding Agreement**
- I. Authorize Sponsorship of 2021 Salt Symposium**

President Hartmann made a motion to approve the Consent Agenda with the revisions to the January 20, 2021 meeting minutes. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

5. NEW BUSINESS

- A. No New Business**

6. OLD BUSINESS

A. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail

Administrator Loomis said she doesn't have anything new to add other than what was in the executive summary.

B. City of Carver Levee

Administrator Loomis said she talked to the City Manager about the reason behind the request for \$75,000 since that was ¾ of what the LMRWD committed to the project. She reported that the City Manager said that it made sense for the City to use the funding the LMRWD was willing to contribute as part of the \$150,000 match to the Flood Hazard Mitigation grant. She further reported that the City Manager thought it seemed fair to split the match 50/50 between the City and the LMRWD. She said the City will pursue additional grants for construction once this phase of the project is done. She said a scope of the work to be completed using the Grant was given to the board in the meeting packet. The scope of work proposes to perform preliminary work to prepare for construction of the Levee. Work includes geo-technical investigations, surveys, easement acquisitions and more.

She noted a cooperative agreement has been prepared and sent to the City. The draft cooperative agreement has not yet been sent to LMRWD legal counsel. She asked if the Board needs to take an action to table the item until next month.

Attorney Kolb clarified there is no motion necessary, since no action is recommended.

Manager Raby said he doesn't agree with the City Manager that it makes sense to expend half of the contribution by the LMRWD that was proposed. He said he would not be in favor of contributing more than \$15,000. He would not support the motion recommended.

Manager Salvato asked what the implications would be if the LMRWD did not fund the total \$75,000 requested at this time. Administrator Loomis said she was not sure. Administrator Loomis noted the funds would be paid once the City expended funds. Manager Salvato acknowledged Manager Raby's concerns, but stated she would like to look at the whole picture.

President Hartmann clarified the amount the LMRWD agreed to contribute. Administrator Loomis said the board committed to up to \$100,000.

Manager Raby said the estimated cost of the total project is \$10 million and that this phase of work is less than 10% of the total cost. Yet the City is requesting 75% of the LMRWD contribution. That is why he is opposed to giving them this much of what the District agreed to contribute.

Manager Frey asked if the project was fully funded. Administrator Loomis said that it was not. Manager Frey noted that there is no guarantee that the project will be completed. Manager Raby said that is his concern with giving so much of the LMRWD contribution. He doesn't think it makes sense to give more than 10% of the contribution

Administrator Loomis said the preliminary work is important to the City in order to seek additional funding. She noted that the Resolution adopted by Board did not specify what the LMRWD contribution would fund. She noted that she understood Manager Raby's concern with the City's request.

C. Remote meeting participation

No new information to report since last update.

D. Dredge Management

i. Vernon Avenue Dredge Material Management site

No new information to report since last update.

ii. Private Dredge Material Placement

No new information to report since last update.

E. Watershed Management Plan

Administrator Loomis said at the time rules were adopted the financial assurance was addressed, but there were no specifics regarding financial assurances in the rules. She noted that the Board was provided with a technical memorandum explaining the action being recommended to the Board. She explained that financial assurances were not addressed in the original rules because it was planned that all the cities would have the ability to approve projects on behalf of the LMRWD. Some cities opted to not seek municipal authority to approve projects on behalf of the LMRWD, so the District must be able to manage risk of projects not being completed, by requiring financial assurances.

She explained a performance bond or letter of credit would be collected in the dollar amounts recommended in the memorandum. Ms. Young reiterated that this is to manage risk.

Manager Raby made a motion to approve staff recommendations regarding financial assurances as outlined in Technical Memorandum - Individual Permit Financial Assurances Recommendations dated February 12, 2021. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

F. 2020 Legislative Action

Administrator Loomis provided an update regarding legislation the LMRWD would like introduced. She noted that Lisa Frenette, lobbyist for the LMRWD, provided an update to her before the meeting and offered her apologies that she was not able to attend the meeting.

Manager Salvato asked about the water storage component whether there was any particular emphasis on natural storage versus man-made. Administrator Loomis said she doesn't know if one type was preferred over another. She noted that were several bills introduced regarding water storage and some of those were not being supported by the LMRWD for several reasons; in one case funding would go to SWCDs and not Watershed Districts.

G. Education and Outreach Plan

i. Citizen Advisory Committee

Administrator Loomis said all the citizens being appointed to the Citizen Advisory Committee (CAC) were invited to the meeting and most were on the call. She introduced Jen Dullum, of Young Environmental, the Education and Outreach Coordinator for the LMRWD

Ms. Dullum said potential CAC members on the call. She outlined the efforts taken to fill the CAC. She noted the LMRWD is still looking for more committee members.

Greg Genz introduced himself and gave a brief background of his interest in the Minnesota River.

President Hartmann asked where Mr. Genz lives. He reported that he lives in Newport. Manager Raby asked if there was a requirement that members live within the District.

Della Young said that while it is preferred, there is not a residency requirement.

Judy Berglund introduced herself and mentioned that she had applied for and received several Cost Share grants from the LMRWD. She said she lives in Eden Prairie.

Craig Diederichs introduced himself and said he became interested in the work of the LMRWD during the last Plan update. He also lives in Eden Prairie.

Ms. Dullum said there was one more member, Jenny Karkowski, that was not able to attend the meeting.

Administrator Loomis noted that there is still room on the CAC for more members and asked the board to let her know if they knew of others that would be interested.

Manager Raby made a motion to the resolution 21-05 approving the recommended membership for the citizen advisory committee. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

ii. LMRWD Website Review

Administrator Loomis said this task was in the work plan approved by the Board. It will be one of the first tasks for the CAC to see if the website can be made more user-friendly.

Manager Salvato asked who currently maintains the website. Administrator Loomis said she is the person that maintains content on the website and that HDR is the consultant the LMRWD uses to develop and maintain the framework.

Ms. Young said the CAC will also be working on developing the infrastructure for the CAC and CAC bylaws.

iii. LMRWD Proposed Social Media Plan

President Hartmann introduced this item.

Manager Salvato asked if the LMRWD has been successful in getting more visible media attention for the 60th Anniversary video. Ms. Young responded that the answer to that question segues into the discussion of social media.

Ms Young reported that they have been working on how the LMRWD might receive more attention in the press. They have found that some kind of hook is needed or an editorial usually precedes coverage. So they are looking at how to get more visibility for the District, such as working with local chambers of commerce and others. She noted that is going to be a difficult prospect.

Ms. Young said the original Education & Outreach plan had identified writing articles and this social media proposal would take the place of the articles. She noted they struggled to complete the task of written articles called for in the work plan. She said that as they worked to identify the audience and that it made sense to pivot to using social media as opposed to traditional means of communication.

Manager Raby clarified there will not be an impact to the cost to the District.

Manager Raby asked about Twitter. Manager Salvato pointed out that with Twitter it is easier to keep things out there by re-tweeting a post. Ms. Dullum said that with Twitter it is easy for items to get buried because of the volume of tweets. She noted that posts stay up longer and relevant on Facebook. President Hartmann said he supports this approach, that social media is here to stay and thinks this will be cost effective.

Administrator Loomis asked for the Board to provide direction. The Board agreed with moving ahead with social media in place of the written articles.

H. 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 said LMRWD staff independently ranked each proposal received and asked the City of Eden Prairie to do the same. All the independent rankings (including the City's) identified the same consultant on top, which was Inter-Fluve. She said the District presented a professional services agreement for the Board to review, which will be entered into with the chosen consultant.

Manager Raby questioned why there weren't interviews. Ms. Young responded and walked the Board through the parameters used to evaluate the criteria. She said the first ranking was conducted without consideration of cost. After that, she said that everyone was asked to rank the proposals again this time considering cost. When cost was factored in, Inter-Fluve still ranked ahead of the others. She said that because Inter-Fluve's proposal was ranked so high compared to the others, that it was determined that interviews were not necessary.

Ms. Young noted that Inter-Fluve's project manager has considerable experience, with 65 other restoration projects in her repertoire. She noted the proposal considered items that were never part of the original proposal request, such as the impact of ice flows and boat wakes. They also presented a deep dive into geo-technical stability analysis that went beyond what was originally considered. The proposal got into hydraulic and hydrology analysis. Lastly, the proposal was very thoughtful in terms of potential risks; looking at high water, climate conditions, permitting delays and potential escalation of construction costs.

The most important consideration was that they split up their proposal into two phases. The first phase between now and August would get the project to 90% and include a probable cost analysis and then wait until the District had funding. They would then finish the last piece of the project to get the District to 100%. As opposed to completing the project shelving it and having the District re-tool it as some point in the future.

So just given the approach presented it was clearly the most responsible proposal.

Manager Raby just wanted it to be transparent as to exactly why Inter-Fluve's proposal was the one recommended

Manager Raby asked about the schedule in the proposed contract and what happens if they don't meet the schedule. Attorney Kolb responded to Manager Raby's question. Manager Raby could not remember the exact location of the terms in the contract that he questioned.

President Hartmann noted there are two different items before the Board on this project. The first is to accept the proposal and execute the professional services agreement. The second is to authorize execution of the grant agreement.

President Hartmann made a motion to accept the Inter-Fluve proposal. The motion was seconded by Manager Salvato.

Administrator Loomis asked if the motion included authorizing execution of the Professional Services Agreement. Attorney Kolb noted the motion could be amended.

President Hartmann amended the original motion to include execution of the Professional Services Agreement. Manager Salvato accepted the amendment. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None

Administrator Loomis said the LMRWD received a grant through the Metro-area Watershed Based Funding program for this project. She noted that she originally thought the grant would be for \$100,000, however, the final amount of the grant was for \$125,732 and execution needs to be authorized.

President Hartmann made a motion to authorize execution of the grant agreement with the Board of Water & Soil Resource for the Metro-area Watershed Based Funding Program. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

I. Project/Plan Reviews

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

i. Approve Municipal Permit for the City of Carver

Administrator Loomis said staff is recommending approval of a municipal permit for the City of Carver.

President Hartmann made a motion to approve a municipal permit for the City of Carver. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

ii. Approve amendment to LMRWD permit 2020-123, Shakopee Flats

Administrator Loomis explained this project has come before the Board in the past. The first time the Board saw this project was when they demolished the existing structures on the property. The second time it came before the Board was when they began to grade the site and begin foundation work. The reason this application has appeared to be piecemeal was because there was no storm water plan. The project requires stormwater management BMPs that are planned by the City to manage its stormwater. Therefore, the developer has been waiting on the City to provide the LMRWD with information needed to issue a permit. Ms. Young said Young Environmental has been in communication with the City regarding this project and plans to manage stormwater from the site and is therefore recommending approval.

President Hartmann made a motion to approve an amendment to LMRWD Permit 2020-123, Shakopee Flats, 339 1st Avenue, Shakopee, MN. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

Manager Raby went back to the Inter-Fluve contract and questioned the completion terms in section 3.01. He said it seemed open ended. Attorney Kolb said this was drafted in advance of the selection of a consultant and some consultants had tight timelines in their proposals and other had alternatives. The proposal chosen was one that had alternatives, because it proposed two phases; the first that would get the District to 90% of the complete project and then waiting until the District had secured funding before completion of the project. For that reason, the agreement was written the way it was. It was intentionally fuzzy. He noted the consultant has agreed to leave the project open until such time as the District gets funding and then completing the project at that point in time.

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

7. COMMUNICATIONS

A. Administrator Report: Administrator Loomis commented on the letter from the former manager Len Kremer and what was meant by the term urban partnership. She updated the Board on conversations she had with Mr. Kremer and shared an email she had received from him. The Board agreed the 'ask' was still kind of fuzzy. She asked the Board to consider whether or not the Board would like staff to spend time on this. The Board agreed that it was worthwhile for staff to continue to spend time on this. Manager Salvato asked if larger implications that should be considered when we're deciding to become a partner in an Ag/Urban partnership.

She noted that she was interviewed by Chaska local access cable television about the East Chaska Creek project

- B. Managers:** Manager Raby said his term expires at the end of February and he thinks he has been reappointed. He said he received communication from the County that he was and another that he was not re-appointed. It was noted the Manager Frey's term has also expired. Administrator Loomis said she would check with the County about both appointments.

The board talked about how it has been a year that the meetings have been done online.

- C. Committees:** No report
D. Legal Counsel: No report
E. Engineer: No report

8. ADJOURN

At 8:23 pm, President Hartmann made a motion to adjourn the meeting. Manager Salvato seconded the motion. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato the following voted against: None.

The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, March 17, 2021 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

Lauren Salvato, Secretary

Attest:

Linda Loomis, Administrator