



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, August 16, 2023

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

Approved October 18, 2023

1. CALL TO ORDER AND ROLL CALL

On Wednesday, August 16, 2023, at 7:00 PM CST, 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).

President Hartmann asked for the roll call to be taken. The following Managers were present: Manager Laura Amundson, Manager Joseph Barisonzi, President Jesse Hartmann, Manager Theresa Kuplic, and Manager Lauren Salvato. In addition, the following attended the meeting in-person: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Consultant; Interns Stefanie Gronlund, Faith Breeden and Leila Khalid, Young Environmental Consulting Group, LLC.

John Kolb, Rinke Noonan, LMRWD Legal Counsel; Ben Burnett, Prior Lake Spring Lake Watershed District Manager, Scott County Commissioner Jody Brennan and Hannah LeClaire, Young Environmental Consulting Group, LLC attended the meeting virtually.

2. APPROVAL OF THE AGENDA

Administrator Loomis noted that the Invoice from Rinke Noonan, Attorneys at Law was not in the meeting materials, but had been received and a hard copy of the invoice was in the materials provided to the Board at their seats. She also asked that Resolution 23-09 be included with the action items for Agenda Item 6. H. i. – LMRWD Projects – Area #3.

Manager Amundson made a motion to approve the agenda with the inclusion of Resolution 23-09 as an action item under agenda Item 6. H. i. – LMRWD Projects – Area #3. President Hartmann seconded the motion. Upon a vote being taken, the motion carried unanimously.

3. CITIZEN FORUM

Administrator Loomis said she had not received communication from anyone that wished to address the Board, and no one present at the meeting asked to address the Board.

4. CONSENT AGENDA

President Hartmann introduced the item.

- A. Approve Minutes June 21, 2023, and July 19, 2023 Regular Meeting
- B. Receive and file July 2023 Financial Report
- C. Approval of Invoices for payment

- i. **Clifton Larson Allen (CLA) - Financial services through July 2023**
 - ii. **TimeSavers Off Site Secretarial – Preparation of June 2023 meeting minutes**
 - iii. **Rinke Noonan, Attorneys at Law – July 2023 Legal Services**
 - iv. **Daniel Hron – September 2023 office rent**
 - v. **US Bank Equipment Finance – August 2023 payment on copier lease**
 - vi. **Young Environmental Consulting Group, LLC – July 2023 technical, and Education and Outreach services**
 - vii. **Naiad Consulting, LLC – June and July 2023 administrative services, mileage, and expenses**
 - viii. **Barr Engineering – July 2023 services related to Area #3 (wetland delineation & geotechnical investigation)**
 - ix. **106 Group – July 2023 services related to Area #3**
 - x. **106 Group – July 2023 services related to Vernon Avenue**
 - xi. **Inter-Fluve – July 2023 Area #3 Design Services**
 - xii. **I & S Group, Inc. – June 2023 services related to wetland delineation at Vernon Avenue**
 - xiii. **4M Fund – May Bank service charges**
- D. Report on Citizen Advisory Committee**
- E. LMRWD Permit Renewals**
- F. LMRWD Permit Program Summary**

Manager Amundson made a motion to approve the Consent Agenda. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.

5. NEW BUSINESS/PRESENTATIONS

A. LMRWD Permit Inspections

Administrator Loomis introduced this item and turned the meeting over to interns from Young Environmental Consulting Group to present the findings of the LMRWD permit inspections.

Stefanie Gronlund, Faith Breeden and Leila Khalid introduced themselves and presented the results of the work they completed this summer inspecting LMRWD permitted projects. They reviewed the 26 permit inspections that they conducted and shared that there are still 18 inspections that will need to be conducted by Young Environmental.

The Board asked about the status of the Engineered Hillside project. The interns stated that they have not received anything back from them at this time but will continue to attempt to make contact.

Administrator Loomis added that this permit was issued as an after the fact permit – work was started without a permit from the LMRWD. The permit expired in April 2023. Upon inspection it was noted that vegetation was not adequately established to close out the permit, so this now is a work without a permit issues. Ms. Young noted that they have been reaching out about the expired permit on this project and they have not received information back with a request to extend the permit.

The Board asked about the timeline for the next steps on this work without a permit. Ms. Young explained that this process is detailed in Rule A of the LMRWD rules, and they would do a cease and desist; however, no construction work is presently being done at the site so there is nothing

that can be physically stopped. She noted that she is working with Attorney Kolb to determine some recourse.

The Board asked if the city would withhold a certificate of occupancy that will be needed once this project is complete and if the Board would be able to step in before this certificate of occupancy is given. The interns stated that the people are already living there.

The Board asked about the percentage of violations this year over last year. The interns stated that last year many more projects were inspected than were inspected this year, which resulted in more violations. Administrator Loomis explained that last year was the first-year inspections were conducted, since the permitting program was initiated in 2020, so there were many more projects to be inspected. It is therefore hard to say if there was an increase in the percentage of violations this year.

The Board asked when the next 18 inspections will occur. Ms. Young stated that these inspections have already started and inspections will continue until all the projects have been inspected.

The Board asked if the current process is to inspect projects once a year. Ms. Young said yes.

The Board asked about inspection of the projects permitted by Cities with LMRWD LGU permits. Ms. Young shared that they will be auditing those permits and results of the audit will come before the Board within the next few months.

The Board thanked the interns for their work and presentation.

B. LMRWD Gully Inventory and Condition Assessment Final Report

Administrator Loomis introduced and provided background on this item. She stated that the Young Environmental interns were available to answer any questions.

President Hartmann made a motion to receive the report and public it on the website. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.

C. Friends of the MN Valley report on County Fair project and 2024 request

Administrator Loomis introduced this item and requested to table this item to the next meeting.

The Board discussed wanting to receive the report before approving another \$10,000 for this project in 2024. They noted the importance of youth education; however, wanted to make sure that the funds are used in the best way that aligns with the strategic plan.

Administrator Loomis added that she requested additional information on the River Watch from Ted Suss.

The Board discussed that they would like to see quantitative data in the reports as well as some lessons that were learned on how they can improve next year.

Manager Barisonzi made a motion to table this item until the September 20, 2023, Board of Manager meeting. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.

D. 2024 LMRWD Budget Discussion

This item was tabled at the July 2023 meeting.

Administrator Loomis introduced this item and reviewed all items listed in the budget for 2024. She noted the budget correlates to the implementation table in the LMRWD Plan.

The Board discussed the budget and how to allocate funds and resources, as well as potential grant opportunities. They discussed public outreach and education and discussed how to adjust the proposed budget to increase the amount committed for education without increasing the total budget. The Board discussed which items could have money redirected to education.

The Board discussed whether a process should be opened for others to come to the LMRWD with project proposals as Friends of the MN Valley has been able to do.

The Board provided direction to Staff on the changes to be made to the budget.

Manager Barisonzi made a motion to call for public hearing pursuant to Section 103D.911 of Minnesota Statutes on Wednesday on September 20, 2023, at 7:00 p.m., in the County Board Room of the Carver County Government Center, 602 East Fourth Street, Chaska, Minnesota 55318 to receive comments on the District's proposed 2024 budget and preliminary tax levy certification for taxes payable in the year 2024. President Hartmann seconded the motion. Upon a vote being taken, the motion carried unanimously

i. Financing of Area #3

Administrator Loomis introduced and provided background on this item. She introduced Shannon Sweeney from David Drown Associates.

Mr. Sweeney discussed fund-raising options and opportunities for this project to match the State's grant. He reviewed the tax impact on the property owners if a levy is done. He shared that the LMRWD will likely need temporary financing when this project begins as the tax levy funds will not be received fully until the end of 2024. He noted that inflation in the cost of construction projects has typically out-paced general inflation.

The Board asked when they plan to go to bid on this project. Ms. Young stated that they anticipate this going to bid in spring of 2024. She discussed the items that could affect the timeline, such as permits, easements, and other items.

The Board asked if they need to have their cash before they are able to get the State funds. Administrator Loomis explained that regardless of the State match, they still need to raise additional funds for the project. Mr. Sweeney added that when the project is defined, they will likely be required to prove full funding for the whole project before they are allowed to proceed.

The Board discussed the funding options of a one-time levy versus bonding.

The Board asked if they have sole authority on the levies or if they must go to the counties for review. Administrator Loomis stated that the LMRWD has the authority to levy without County approval. She noted that WMOs must have levy requests approved by the counties.

The Board discussed other projects in the coming years that may require financing. Administrator Loomis noted that projects are outlined in the LMRWD's Plan. She said there are not any projects identified in the plan of a size that would require financing. If the

Board determines that there are projects that they want to do, then the plan should be updated to include those projects.

Attorney Kolb explained that they can amend the plan and adopt a revised capital improvement plan and revised goals and objectives. He noted that managers can initiate projects at any time. He suggested scheduling a meeting for the managers to discuss their priorities for the future.

Ms. Young noted that possible projects being discussed do not fall outside of the goals and objectives of the LMRWD plan, including doing work and spending money outside of the district.

The Board discussed projects that are in the plan and how the plan addresses the financing of those projects. And why the Area #3 project is different, as it is a larger project that requires much more funding.

Administrator Loomis discussed the uniqueness of this particular project. She noted that a decision on this does not need to be made tonight. She stated that the decision does not need to be made until the September meeting.

The Board asked Mr. Sweeney for recommendations on a bonding term. Mr. Sweeney shared that he usually advises clients to pay off their debts as quickly as they can, so he recommends a 10 year term.

The Board discussed the direction to take regarding the 2024 budget and financing the Area #3 project. Mr. Sweeney said the decision comes down to whether want to make a levy for this project to collect next year and how much do you want that levy to be. The decision whether to bond could wait until bids for the project are in hand and at that point determine the bond duration, structure and all those kinds of things. Mr. Sweeney pointed out that Attorney Kolb had suggested that the LMRWD make the first levy now for collection next year, which would save some expense to reduce what the LMRWD is borrowing. The decision to sell bonds could wait until next year.

Administrator Loomis explained what changes she heard from the Board to the proposed budget that will come before the Board at the September Board of Managers meeting.

6. OLD BUSINESS

A. 2021/2022 Financial Audit

Administrator Loomis introduced and provided an update on this item. She shared that they did receive a response from the letter sent to the previous auditor. She stated that she spoke to the State Auditor who recommended that they file a complaint with the Accountancy Board about this auditor. She noted that it is likely not worth it to pursue legal action as it would end up costing more in the long run.

Attorney Kolb reiterated that seeking legal action would likely end up costing more time and be a very lengthy process. He noted that the auditor has had his license suspended.

B. Lower Minnesota River East One Watershed One Plan Governance

Administrator Loomis introduced this item. She noted that the Scott County WMO is not satisfied with the One Watershed One Plan planning process. She added that a joint power

organization will be formed. She stated that Attorney Kolb will look over the draft agreement before approving.

The Board stated that they would like Attorney Kolb to review it prior to any decisions being made.

C. City of Carver Levee

Administrator Loomis introduced and provided background on this item.

D. Dredge Management

Administrator Loomis introduced this item. She shared that she has received notice that Petersons Bar will be dredged starting this week. She explained that the dredging had already started and then they had to stop due to grounding and having to clear a channel.

i. Vernon Avenue reconstruction and culvert replacement project

Administrator Loomis introduced this item and provided an update on the project. She shared the recommendation to approve the Cargill East River Dredge Site Access Road & Culvert Improvement Project, Savage, Minnesota Architectural History Reconnaissance Survey and Assessment of Effects and authorize execution of Work Order 2023-04 for additional research on the architectural history of the area.

Manager Amundson made a motion to approve Cargill East River Dredge Site Access Road & Culvert Improvement Project, Savage, Minnesota Architectural History Reconnaissance Survey and Assessment of Effects and authorize execution of Work Order 2023-04.

Manager Salvato seconded the motion. Upon a vote being taken motion carried unanimously.

E. Watershed Management Plan

No new information to report since the last update.

F. 2023 Legislative Action

Administrator Loomis introduced this item. She noted that Ms. Lisa Frenette, legislative liaison for the LMRWD, recommended that the LMRWD consider joining AgriGrowth. Administrator Loomis recommended tabling this item to the next meeting.

President Hartmann made a motion to Motion to table this item to September 20, 2023.

Manager Kuplic seconded the motion. Upon a vote being taken motion carried unanimously.

G. Education and Outreach Plan

No new information to report since the last update.

H. LMRWD Projects

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

i. Area #3

Administrator Loomis introduced and provided background on this item. She shared the proposal for obtaining right-of-way and the PSA. She also noted that Area #3 requires additional research into architectural history. 106 Group provided a proposal for the additional work and a work order for the additional work. Lastly, the LMRWD is required to adopt resolution 23-09 – Acceptance of Appropriation of State Funds, before it can receive money appropriated by the legislature.

Manager Amundson made a motion to approve LMRWD R/W Proposal, authorize work to proceed and authorize execution of PSA between LMRWD and WSB . Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.

President Hartmann made a motion to approve proposal from 106 Group for Area 3 Architectural History Reconnaissance Survey and authorize execution of Work Order 2023-03. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.

Manager Barisonzi made a motion to adopt Resolution 23-09 – Acceptance of Appropriation of State Funds. President Hartmann seconded the motion. Upon a vote being taken, the motion carried unanimously

ii. Spring Creek

Administrator Loomis introduced this item. She shared that the update for this project is in the package.

I. Permits and Project Reviews

i. Xcel Driveway (LMRWD No. 2022-015)

Administrator Loomis introduced and provided background on this item. She shared the recommendation conditional approval.

Manager Kuplic made a motion to conditionally approve a permit for Xcel Driveway (LMRWD No. 2022-015), contingent upon receipt of a copy of the NPDES stormwater permit, contact information for the person(s) responsible for erosion and sediment control features, documentation of approval from the City of Shakopee, documentation of approval from the Prior Lake Outlet Channel Joint Powers Organization and final construction plans signed by a professional engineer. Manager Salvato seconded the motion. Upon a vote being taken, the motion was carried unanimously.

ii. Burnsville Sanitary Landfill Expansion – Amendment (LMRWD No. 2022-040)

Administrator Loomis introduced and provided background on this item. She shared the recommendation for conditional approval.

Manager Amundson made a to amend Burnsville Sanitary Landfill Expansion, LMRWD Permit No. 2022-040 with the following stipulation: the Applicant must send the USACE permit to the LMRWD before work can be completed in wetland within the Annex Development Area. President Hartmann seconded the motion. Upon a vote being taken, the motion carried unanimously.

iii. 5250 Eagle Creek Boulevard, Shakopee – work without a permit

Administrator Loomis introduced and provided background on this item.

iv. 535 Lakota Lane, Chanhassen – work without a permit

Administrator Loomis introduced and provided an update on this item.

Attorney Kolb gave an update on the legal action. He said the attorney for the property owner was notified that the LMRWD has withdrawn its definite extension to answer. The attorney responded and the response was included in the meeting packet. So legal action will be resumed. The City has withdrawn the certificate of occupancy.

COMMUNICATIONS

A. Administrator Report: Administrator Loomis' report was published in the agenda packet.

B. President: No report

LOWER MINNESOTA RIVER WATERSHED DISTRICT
BOARD OF MANAGERS
WEDNESDAY August 16, 2023
MEETING MINUTES

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

6. ADJOURN

At 9:33, President Hartmann made a motion to adjourn the meeting. Manager Kuplic seconded the motion. Upon a vote being taken, the motion was carried unanimously.

The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, September 20, 2023, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

Attest:

Lauren Salvato, Secretary

Linda Loomis, Administrator