



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, February 19, 2020

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

Approved March 18, 2020

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

On Wednesday, February 19, 2020, 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, and President Jesse Hartmann (Manager Raby's absence was excused). 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 Counsel; Lindsey Albright, Dakota County SWCD, Heather Nelson, WSB Engineering, Todd Hubmer, Wenck and Courtney Johnson, Mayor for the City of Carver.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis asked that three items be added to the agenda. She asked that Item 4. E. - Receive and File Comments on the Rules from the Cities of Burnsville, Shakopee and Savage be added to the Consent Agenda and that Item 6. C. - Sponsorship of 2020 Salt Symposium, and Item 6. D. - Letter to the US Army Corps of Engineers be added to New Business

**President Hartmann made a motion to approve the Agenda, with the addition of that Item 4. E. - Receive and File Comments, Item 6. C. - Sponsorship of 2020 Salt Symposium, and Item 6. D. - Letter to the US Army Corps of Engineers. The motion was seconded by Manager Frey. 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.

**A. Approve Minutes of the December 18, 2019 and January 15, 2020 Regular Meetings**

**B. Receive and file January 2020 Financial reports**

**C. Approval of Invoices for payment**

i. **Manager Frey - for second half 2019 per diem and expenses**

ii. **Daniel Hron - for January 2020 office rent**

iii. **Manager Raby - for second half 2019 per diem and expenses**

iv. **US Bank Equipment Finance - for January & February 2020 copier lease payment**

v. **Braun Intertech Corp. - for Area #3 in Eden Prairie**

- vi. **Frenette Legislative Advisors - for January 2020 lobbying services**
  - vii. **Manager Hartmann - for second half 2019 per diem and expenses**
  - viii. **Rinke Noonan Attorneys at Law - December 2019 legal services**
  - ix. **US Bank Equipment Finance - for March 2020 copier lease payment**
  - x. **Naiad Consulting, LLC - November 2019 administrative services & expenses**
  - xi. **TimeSaver Off Site Secretarial - for preparation of November meeting minutes**
  - xii. **Naiad Consulting, LLC - December 2019 administrative services & expenses**
  - xiii. **USGS - Q4 2019 flow & sediment monitoring**
- D. Designation of Official Depository and authorize execution of Financial Services Agreement**
- E. Receive and File Comments from the Cities of Burnsville, Shakopee and Savage**

**President Hartmann made a motion to approve the Consent Agenda with the addition of Item 4. E. - Receive and File Comments from the Cities of Burnsville, Shakopee and Savage. The motion was seconded by Manager Frey. The motion carried unanimously.**

## **5. PUBLIC HEARING**

### **A. Regarding Adoption of Rules to Implement the LMRWD Watershed Management Plan**

President Hartmann introduced the item and opened the public hearing. He asked Attorney Kolb to review the purpose of the hearing and the decision standard for the Board. Attorney Kolb advised the Board of the requirements of Statutes regarding watershed rules. He noted the most relevant comments are those related to whether or not the rules are consistent with the standards already adopted and incorporated into the Watershed management plan or if they somehow exceed the standards previously adopted. He stated the most important comment received was from the Board of Water Resources' review of the proposed rules and their conclusion that the rules are consistent with the standards that have already been adopted in the watershed management plan.

Mr. Kolb then provided the order of the hearing.

Ms. Young reviewed the scope of the rules. She provided an overview of the plan adoption process and a history of how the District got where it is tonight. She pointed out that the Board set the goals for the plan, specifically, for flood plains, high value resources (trout waters and fens), groundwater resources and protections for steep slopes. She noted the LMRWD prepared a Statement of Need and Reasonableness that normally is not prepared in the watershed planning process. However, several cities requested that the District prepare such a document. She noted that the municipalities were given 180 days to implement the standards contained in the plan and that the rules were developed to be the foundation the LMRWD would use to enforce the standards. She noted the standards are what need to be reflected in the cities' official controls, not the rules. She noted this distinction is what will be critical to evaluating some of the comments received.

She said the purpose of the rules are to facilitate municipal compliance with statute; to provide a mechanism to verify local controls and avoid duplication of programs.

She noted the process began with 8 specific rules. Rules E. G. and H. were reserved to be implemented in partnership with the MN Department of Natural Resources. The LMRWD will work with them and review and comment on activities within those areas.

The first rule, Rule A, is the administrative and procedural requirements which set the permit structure. She explained the LGU permit and what is required of the municipalities. She then explained the individual permit and the impact individual permits will have on MNDOT projects.

She pointed out the differentiation between projects located within High Value Resource Areas and other areas of the LMRWD.

Ms. Young said Rule C; flood plain requirements received the most comments, particularly from the cities of Savage and Shakopee. She pointed out that the floodplain standards in the plan are not new. They are the same standards contained in previous versions of the LMRWD Plan. Rule F deals with the steep slope overlay zone.

Ms. Young went through the stakeholder engagement process. Rule development was authorized by the Board in November 2018. In March 2019, a TAC (Technical Advisory Committee) meeting was held and rules were provided to Municipalities for comment shortly thereafter. The period for comments was extended because of several requests from cities. The TAC requested an additional TAC meeting and the Board of Managers also authorized staff to meet with any municipality that requested a meeting to discuss specific issues (which they did). Draft rules were sent to BWSR in October 2019 and others. BWSR made a determination that the rules were consistent with the plan approved by BWSR in 2018.

Attorney Kolb pointed out that a comment response log was in the meeting packet and that additional comments received after the end of the comment period, were acknowledged this evening. He advised the Board that unless the Board had questions, the hearing could be opened for public comment.

The public hearing was invited to speak. No one indicated a wish to speak. President Hartmann closed the public.

Staff recommended that the rules be adopted.

**President Hartmann made a motion to approve Resolution 20-02. The motion was seconded by Manager Frey. The motion carried unanimously.**

## 6. NEW BUSINESS

### A. City of Carver Levee

Courtney Johnson, Mayor of the City of Carver, introduced herself and gave a presentation. She asked for partnership on a project for levee improvement in the City of Carver. Mayor Johnson said the existing levee is non-conforming according to FEMA and the US Army Corps of Engineers.

Mayor Johnson talked about the historic downtown and how much of it is in the 100 year floodplain. She said the community built the levee after the 1965 flood. The Minnesota River has flooded 22 times in the last 10 years. She detailed the deficiencies to the levee. Last year (2019) the river was above flood stage more often than it was below flood stage.

Mayor Johnson said the estimated plan right now is \$11.2 million. She said this plan will correct the deficiencies and will allow the City to have a levee that meets the standards for certification. The City is looking to get into the State's bonding bill this year. She outlined the steps the City has laid out and they are in the funding phase right now, looking at a variety of ways to fund the project.

Mayor Johnson said state funding requires a local match and the city is looking for help from the Lower Minnesota Watershed District for the local match. The City is asking for the LMRWD to contribute \$50,000. She thought this would require an amendment to the LMRWD CIP.

She said the City has already invested \$1.2 million towards the levee improvements project which includes replacing a storm water lift station, improvements to drainage systems and developing the concept plan for the levee improvement project.

President Hartmann asked if Spring Creek is part of this project. Heather Nelson explained the flooding that the City experiences and that some levee improvements will be along Spring Creek

Administrator Loomis commented on two properties cited by the LMRWD that are experiencing loss of property through erosion. Todd Humber said erosion control upstream is not part of this project and funds received from the State would not be eligible to fix erosion.

Mayor Johnson said the \$11.2 would be to make improvements, not tearing down and starting from scratch. Mr. Hubmer said that under the State program the local match is capped. Currently the City's contribution is capped at \$2.1 million.

Attorney Kolb commented on the process the LMRWD would need to go through to be able to contribute. It would likely require a plan amendment to add the project to the CIP.

Administrator Loomis pointed out that the LMRWD plan was adopted in 2018 and this project was not identified by the City through the Plan amendment process.

President Hartmann asked some questions about the project and Ms. Nelson responded.

Ms. Young asked what the timeline for the project was. Mayor Johnson said sooner rather than later. She asked what is realistic for the LMRWD. Ms. Young said LMRWD staff will have to go through a process similar to what was done for the Amazon project in Shakopee.

Next steps will be for city staff to get in touch with the LMRWD. Administrator Loomis asked about the status of legislation. Mr. Hubmer said language is being drafted and that he would share it with the LMRWD once it is drafted.

**B. Proposal from Friends of the Minnesota Valley**

Administrator Loomis said she was approached by Ted Suss, Executive Director for Friends of the Minnesota Valley (FMV), for two projects. The first project, FMV is looking for \$10,000 to help fund a River Watch Program. Administrator Loomis explained what River Watch is.

The second project is to set up booths at County fairs within the MN River Basin, similar to the project the LMRWD did with Friends in 2017.

President Hartmann asked about other proposals the Mr. Suss had presented to the Board. Administrator Loomis said that Mr. Suss had come to the LMRWD in 2018 to ask for a proposal to hold education events in each county in the MN River basin to improve soil health. She also spoke about a project proposed by Scott Sparlin, from the MN River Congress. Mr. Sparlin had requested the LMRWD's help to pass legislation that would fund water storage within the MN River basin in an effort to reduce water flow and erosion. She said right now she is only asking if the Board is interested in having her meet with Mr. Suss to gather more information about his proposals.

**President Hartmann made a motion to direct staff to bring back further information on these programs. The motion was seconded by Manager Frey. The motion carried unanimously.**

**C. Sponsorship of 2020 Salt Symposium**

Administrator Loomis talked about a request the LMRWD received to sponsor a salt symposium. She explained that in the past the LMRWD has sponsored a Road Salt Symposium that has been a project of the Freshwater Society. The Road Salt Symposium has been a joint effort between Freshwater, the MPCA, and Fortin Consulting and was aimed at cities and others that maintain Minnesota roadways. Recently, winter maintenance contractors have also been invited to attend.

The request this evening is for a symposium from Fortin Consulting and the MPCA that would expand the focus of the event to address all salt sources; winter maintenance and water softeners. This event will be in August in Medina. She noted if this is funded at \$500, the LMRWD may receive additional requests to sponsor salt symposium events this year.

President Hartmann commented that he liked that this is addressing more than road salt and said he would like to attend and is in support of the request.

**President Hartmann made a motion to support the Salt Symposium with a \$500 maximum. The motion was seconded by Manager Frey. The motion carried unanimously.**

**D. Letter to the US Army Corps of Engineers**

Administrator Loomis said the LMRWD supported spin-off studies from the MN River Integrated Basin Study in the past. She noted the Corps is getting ready to request funds again and wants the LMRWD to update its letter of support. She noted that the letter is not binding, so no funds are being committed. She noted an updated letter has been prepared.

**President Hartmann made a motion in support of continuing to work with the Army Corps of Engineers. The motion was seconded by Manager Frey. The motion carried unanimously.**

**7. OLD BUSINESS**

**A. Remote meeting participation**

No new information since last update.

**B. Dredge Management**

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

No new information since last update. Administrator Loomis noted this item will be removed from future agendas.

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

Administrator Loomis said a contract was provided in the meeting packet. She noted that the documents have been reviewed by legal counsel. Attorney Kolb clarified that he reviewed the documents and noted some deficiencies that have been corrected.

President Hartmann asked how long the contract is good for. Attorney Kolb said until the project is complete and then for two years beyond the completion of the project, which is basically a warranty period. Ms. Young commented that the project is scheduled for construction in the fall.

**President Hartmann made a motion to execute construction documents. The motion was seconded by Manager Frey. The motion carried unanimously.**

**iii. Private Dredge Material Placement**

No new information since last update

**C. Watershed Management Plan**

This project was discussed during the public hearing.

**D. 2020 Legislative Action**

Administrator Loomis said she received an update from Ms. Frenette. Two bills have been introduced to address the LMRWD grant for the Ravine Stabilization at Seminary Fen that was denied. Ms. Frenette noted that the City of Shakopee has introduced a bill to request funding to stabilize Minnesota River banks from the city's western edge to Three Rivers Park at Murphy's Landing. Administrator Loomis said she has contacted the City and they were not very clear on

what this project entails. President Hartmann asked if this was at Huber Park and she said she thought that it was more likely within Memorial Park.

**E. Education and Outreach Plan**

No information to report since last update.

**F. LMRWD Projects**

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

**i. East Chaska Creek Restoration**

Administrator Loomis said staff had hoped to get this project done this spring, however, staff met with the city to discuss staging of the project and the city informed the District that additional permits would be required. LMRWD staff is trying to get information needed for the permits from the City in time to complete the project this spring. It is not looking like that will happen.

Administrator Loomis said that no action is needed on this project, however, staff wanted to inform the Board that this work will add additional cost to the project and staff will bring an estimate of the added cost to the Board at a future meeting. LMRWD staff met with the City throughout the development of this project and was told that City approval of the project would not be a problem. It wasn't until the LMRWD applied for a permit through the DNR for work in the public waters that the city informed the District that the project would have to go through the Wetland Conservation Act process and provide a certificate of no-rise for work in the floodplain.

**G. Project/Plan Reviews**

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

**H. 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 City of Savage said that the Schroeder's Acres Park project will be going to the Savage City Council soon. She noted the administrator report will be sent to the board.

**B. President:** No report

**C. Managers:** No report.

**D. Committees:** No report

**E. Legal Counsel:** No Report

**F. Engineer:** No report

**8. ADJOURN**

**President Hartmann made a motion to adjourn. Manager Frey seconded the motion. The meeting was adjourned at 8:07pm. The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, March 18, 2020 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN.**

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Dave Raby, Secretary

Attest:

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
WEDNESDAY, FEBRUARY 19, 2020  
MEETING MINUTES

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Linda Loomis, Administrator