



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, August 19, 2020

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

Approved September 16, 2020

1. CALL TO ORDER AND ROLL CALL

On Wednesday, August 19, 2020, at 7:04 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, Manager Dave Raby, President Jesse Hartmann and Manager Lauren Salvato. In addition, the following joined the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Katy Thompson, Phil Margarit, and Katherine Tomaska, 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 and Austen Adam, Loucks. Lisa Frenette, Frenette Legislative Advisors joined the meeting at 8:33pm.

2. APPROVAL OF THE AGENDA

Administrator Loomis requested that the professional services agreements for legal services from Rinke Noonan be added to the Consent Agenda as Item 4. D and for technical services from Young Environmental Consulting Group, LLC be added as Item 4.E. She also asked that a discussion of Carver CSAH 11 - Jonathan Carver Parkway be added as Item 7.I iv.

President Hartmann made a motion to approve the Agenda with the additions of Item 4. D. - Agreement for legal services, Item 4. E. - Agreement for technical services, and Item 7. I. iv - Carver CSAH 11 - Jonathan Carver Parkway. 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 said that a new liaison from the Prior Lake/Spring Lake Watershed District, Steve Pany, has called in to the meeting. Mr. Pany is a new Manager for the Prior Lake Spring Lake Watershed District, who was appointed to fill out the remaining term of Manager Fred Corrigan and was appointed by the PLSLWD as the liaison to the LMRWD.

She did not receive communication from anyone who wished to address the Board.

4. CONSENT AGENDA

President Hartmann introduced the item.

- A. **Approve Minutes June 17, 2020 and July 15, 2020 Regular Meeting**
- B. **Receive and file July 2020 Financial reports**
- C. **Approval of Invoices for payment**
 - i. **Frenette Legislative Advisors - June lobbying services**
 - ii. **Scott County Soil & Water Conservation District - Q1 monitoring services**
 - iii. **Manager Hartmann - 1st half 2020 per diem payment & expenses**
 - iv. **US Bank Equipment Finance - July & August 2020 payment on copier lease**
 - v. **Naiad Consulting, LLC - April & May administrative services & expenses**
 - vi. **Redpath and Company - 2019 financial audit services**
 - vii. **Time Savers Offsite Secretarial Service - for preparation of May 2020 meeting minutes**
- D. **Agreement for Legal Services with Rinke Noonan Attorneys at Law**
- E. **Agreement between LMRWD and Young Environmental Consulting Group, LLC for Technical Services**

Manager Raby made a motion to approve the Consent Agenda. 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.

5. PUBLIC HEARING

- A. **Public Hearing on the Proposed 2021 Budget and Preliminary Certification of Tax Levy Payable 2021**

Administrator Loomis said no changes were made to the budget since the board saw it in July. She noted no one has contacted her asking to provide input to the board on the budget or preliminary levy certification.

President Hartmann opened the public hearing.

Hearing and seeing on one wanting to provide input to the Board, President Hartmann closed the public hearing.

Administrator Loomis said she provided some other documentation regarding funds that make up the fund balance. She noted that the Board had asked about the fund balance at the July Board meeting. She also noted that the Board could reduce the amount of the proposed levy and rely more on the fund balance.

Manager Raby commented on the Education and Outreach Work Plan. He noted that the Work Plan is more than what is in the budget for that. Administrator Loomis said there is \$30,000 in education next year. She said the intent of the budget was to use fund balance to implement the Education & Outreach Work Plan.

Manager Raby made a motion to adopt resolutions 20-05, 20-06, 20-07 and 20-08 for Preliminary Certification of Property Tax Levies Payable 2021 and approving the 2021 Proposed Budget. And to adopt Resolution 20-09 Approving Mid-year Budget Adjustment for Fiscal Year 2020 and Authorizing District Administrator to Implement Same 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.

6. NEW BUSINESS

A. Gully Inventory Report

Administrator Loomis said this report is an update to the inventory done for the District by the MN Conservation Corp in 2007. Ms. Young introduced the interns.

Phil Margarit and Katherine Tomaska spent the summer assessing the current conditions. The interns reviewed the findings and experiences they encountered during field inspections.

They talked about the importance of the study and how the findings of the study can be used to manage resources within the District.

Ms. Young highlighted the challenges of the project. She introduced Katy Thompson, of YECG, who provided support to the interns. Ms. Young noted that safety training was conducted jointly with Riley/Purgatory/Bluff Creek Watershed District and that COVID provided an additional safety challenge and that precautions were taken to maintain physical distance when conducting field inspections and in traveling to and from sites. She said the full report will be coming in September.

Manager Salvato asked about the methodology used in characterization of the gullies. Mr. Margarit said the interns received information from Ms. Thompson to use when characterizing the gullies. He said they looked at geometry, slope, length, and notable features of the gully. They also looked for aggradation and degradation. Ms. Thompson said there was a desktop analysis component which was used. They looked at what had been done in the past and tried to apply standard criteria to those gullies when comparing to 2020 sites. They tried to make sure that we were comparing apples to apples when looking at the progression from 2008 to today. They consulted research papers and the University of Minnesota to come up with standard datasets to be used in the field to try to characterize the site and to justify why something was classified high vs. low.

President Hartmann asked how many more sites were identified. Mr. Margarit said 216. President Hartmann asked if the sites were pre-identified or if they just found them. Mr. Margarit said that they started with the 2008 inventory, but new sites were found by observation. President Hartmann asked if there is a map of all the locations. Ms. Tomaska said yes, that will be in the report. President Hartmann said this sounded like a great opportunity for an internship and thanked Mr. Margarit and Ms. Tomaska for the presentation. The other Managers thanked the interns also.

Ms. Young said that the LMRWD is planning to make a presentation of this work at the MAWD Annual Conference.

Manager Salvato asked staff if a reason could be identified as to why there seems to be more gullies and erosion. Ms. Young noted it will be difficult to say that additional gully's have been developing because it is not clear how gullies were identified in the 2008 inventory. She noted that this inventory will be used as a baseline for all future assessments.

Administrator Loomis one reason for more gullies may be due to the increase in impervious surfaces and changes to drainage patterns caused by development and changes in the climate where we are receiving more frequent and heavier rainfalls.

7. OLD BUSINESS

A. 2020 Metro Children's Water Festival

Administrator Loomis said this item was tabled at the last meeting. She noted a budget for the project was provided in the executive summary. She noted organizers have collected \$14,000 so

far. They would like to raise another \$10,000, because they are not sure what production of a virtual festival will cost. While they will save money on one side as they will not need to rent the State Fair Grounds or provided buses for transporting students they are not sure costs will be for making presentations. They are also planning to close caption presentations and add other accessibility features.

Administrator Loomis said the organizers are planning a career path curriculum that is new this year, which will highlight presentations by diverse professionals with the intent of encouraging minority students to pursue careers in natural resource fields. She said the outreach will be greater than other years because presentations will be recorded and available on-line. They will target under-served school. Every year there is a waiting list for schools wanting to attend and this year presentations will be available to all schools.

Manager Raby said this is a good program. He only questions the thinking that it will cost more this year. He is fine with the LMRWD contributing the amount of dollars that it has in the past.

Manager Salvato said she is glad they are reaching out to underserved communities and agrees with Manager Raby. President Hartmann agreed.

President Hartmann made a motion to authorize sponsorship of the virtual 2020 Metro Children's Water Festival in the amount of \$1,650. 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.

B. City of Carver Levee

Administrator loomis noted in 2015 the city had approached the district for funds to repair a bank failure in City Park. The City determined that it did not need the money so funds were reallocated to another project. That project did not occur either, so those funds have been collected, but were not spent. The amount of those funds was \$50,000.

The District will schedule a meeting with the City before the September Board meeting.

C. Remote meeting participation

No new information to report since last update.

D. Dredge Management

i. Vernon Avenue Dredge Material Management site

Administrator Loomis said staff is working to schedule a meeting on site with LMRWD staff, the site manager and the contractor for the project, Meyer Construction.

ii. Private Dredge Material Placement

Administrator Loomis reported that the site manager is concerned that private dredge material may not be completely removed by September 15th. She also reported that private terminal operators have indicated that they may need to dredge again this season.

President Hartmann asked what is usually done with the material and if the terminal operators are concerned with the cost of removal. Administrator Loomis said they are concerned with the cost (it can cost up to \$30/CY to manage the private dredge material) and that is why they have contracted with some one other the LS Marine to remove the material from the LMRWD dredge site.

E. Watershed Management Plan

Administrator Loomis reminded the Board that the date municipalities must have official controls in place that conform to the LMRWD standards is September 1st. She said there is some confusion among the cities about what they are required to do based upon

communications with the cities. She noted that staff will meet to bring recommendations to the Board at the September meeting. So far, there is only one permit that staff would be comfortable approving.

Attorney Kolb reviewed the requirements in order to bring Manager Salvato up to date. He outlined the options for the Cities and what recourse the District has.

Manager Salvato asked if it would be helpful for Managers to go to City Council meetings. Attorney Kolb said that is a good idea but that he thinks this can be resolved at a staff level.

Administrator Loomis asked the Board to approve the work plans that were presented. Manager Raby said it is a lot of work and questioned if it is going to get done. Ms. Young said there were not work plans set up last year to authorize work to get done. She noted that some of the items that appeared in the LMRWD CIP, that were not done, were items brought to the District by the Cities and the Cities moved ahead on many of them without the District. Manager Raby asked about the Education and Outreach Work Plan and said he likes the scope of work. He asked about how the District will fund the work. She noted that money was included in the 2020 budget for some of these tasks and some others will not happen because of COVID 19, so that frees up some funds. Administrator Loomis said funding to complete the E & O plan in 2021 would come from fund balance.

Manager Salvato questioned if people know who the District is. She noted a social media presence might be helpful. Manager Raby agreed and noted the work plan had a task to interact with the media. He did not disregard that there are other things that could be done. He asked Ms. Young for her thoughts for increasing the District's visibility. She thought there were several opportunities and that they gave that quite a bit of thought in developing the Work Plan. She noted that the timeline in the Work Plan is flexible and could be adjusted as work begins.

Manager Salvato commented on the corridor plan and on randomly selecting focus groups virtually. She felt that it might be challenging. She referenced her work on the Mississippi River leading open citizen sessions (pre-COVID) to understand new ways for addressing sediment, channel management, flooding and drought. She wanted to better understand the focus groups and use of businesses. Ms. Young responded that she has done similar sessions for other clients and that she has found that it has been easier to gather groups for virtual meetings. She said she is more concerned with how to engage participants and get information from them. She thought that Manager Salvato would be a good resource moving forward.

Manager Raby made a motion to approve and authorize implementation of the watershed management work plans as presented. 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.

F. 2020 Legislative Action

Administrator Loomis said a copy of a joint letter to the Governor and legislative leaders urging passage of a bonding bill was sent to the Board.

Manager Salvato asked who drafted the letter. Administrator Loomis said she wasn't sure. Manager Salvato said there is a good way to be direct and be cordial and she said she is not comfortable with how the letter was worded. Manager Raby said he agrees. He said there are a couple things he didn't think were appropriate. First, he didn't think blaming inaction on the pandemic was appropriate; he thinks it is irresponsible to not pass a bonding bill regardless of the pandemic. He also thinks that stating there is an economic crisis is not an appropriate

reason for the same reason. Administrator Loomis said she would convey the Board's thoughts to Lisa Frenette, who has been that contact on this for the District.

Lisa Frenette joined the meeting. She said she understands the tone is tough. She said it is tough because everyone is frustrated that nothing has been done. There have been several years of no bonding. She said there are close to 50 groups that have signed on, including the Red River Board. She said the board can write their own letter. Manager Raby said again for Ms. Frenette, inaction is not about the pandemic, it has been happening for years.

Ms. Frenette noted that bonding does not directly affect the District, but its project would be funded that impacts the District indirectly. Manager Raby repeated his concerns and that the legislature has not been doing their job for a long time. Manager Salvato concurred. Ms. Frenette they could put together a flood hazard mitigation funding and transportation funding letter. She felt there was more impact signing on to a letter from a larger group.

President Hartmann suggested signing this letter and sending their own, since we are passed the point of amending the letter presented tonight. Ms. Frenette said the timing is imperative and should not wait until the next Board meeting. She suggested the LMRWD could send a letter stating that the LMRWD agrees with the intent of the letter and that we urge passage of a bonding bill for - and give our reasons. Manager Raby said he agrees with the intent of the letter, but that the LMRWD should write its own. Manager Salvato asked whether this is consensus or majority vote.

Attorney Kolb said there should be an action by motion. As to the letter and suggestions he said he didn't think the nuance the Board is concerned with will be apparent to the recipients of the letter and that the tone of the coalition letter would not hurt the LMRWD at all. The Board could sign the coalition letter and then can clarify the expansive concern in an individual letter.

President Hartmann said he felt signing on to a coalition letter would have more clout and by sending our own letter both concerns would be addressed.

Ms. Frenette said a letter needs to be sent before the next special session, September 11th.

Manager Raby made a motion to not sign the letter and instead write the Board's own letter that they are in agreement with the intention but for specific reasons. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Raby and Salvato; the following voted against: Hartmann. Manager Frey voted present.

Ms. Frenette noted that there really is nothing to report in the way of a legislative update. She noted that the State is looking at a projected \$5 Billion dollar deficit in next biennium.

G. Education and Outreach Plan

This item was discussed above.

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 Stabilization

Administrator Loomis said this is included in the list of projects being considered for funding under the MN River North Watershed Based Funding Program. She noted the grant request to Hennepin County was denied. The County encouraged the District to apply again next year after additional sources of funding for the project have been identified.

I. Project/Plan Reviews

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

i. Freeway Dump and Landfill

Administrator Loomis said the reason this is on the agenda has to do with the definition of impervious surface in the LMRWD Plan. She said staff met with the MPCA and its consultants to discuss the management of stormwater and whether or not the cap on the dig and line option should be considered impervious or pervious. The MPCA has not decided which option it will choose.

Consultants for the MPCA want to consider the cap as pervious. LMRWD staff believes it should be considered impervious.

Ms. Young said LMRWD staff researched how caps like the one being proposed are considered by other watershed entities. After that research, LMRWD staff recommends looking at this project as artificial turf, where it is not 100% impervious, but it is not completely pervious either. She noted the MPCA will be doing robust maintenance and will meet the floodplain requirements.

President Hartmann asked if the definition would be changed or if additional definitions would be added. Ms. Young noted that the District is not yet prepared to revise the definitions, because of all that entails. She said the staff recommendation is for a compromise by calling this specific project artificial turf rather than to issue a variance to the definition.

Manager Raby said he understands artificial turf to have a drainage system in place and this project does not have that. Ms. Young pointed out that there is a drain system between the pervious layer and the cap. Attorney Kolb noted that there is treatment of both the stormwater and the leachate. He noted that it is up to the Board how to interpret the District's rules.

Manager Salvato agrees with the approach staff is presenting and appreciates the research that staff did.

Manager Raby made a motion to move forward with the approach that this be considered artificial turf and approve the recommendation of staff. 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. Fort Snelling

Administrator Loomis said this project is at the Upper Post Area of Old Fort Snelling. The Project proposes to rehabilitate existing buildings to create affordable housing targeted to Veterans.

Austen Adam, an engineer for the project from Loucks Inc., answered questions from the Managers.

Ms. Young noted the maintenance agreement has been reviewed and Attorney Kolb has given approval.

President Hartmann made a motion to approve the request. 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.

iii. Prairie Heights

Administrator Loomis said this project has been approved by the Riley/Purgatory/Bluff Creek Watershed District, which was a condition of the LMRWD approval. RPBCWD had conditions to its approval. She noted the developer has been informed.

iv. Carver CSAH 11 Jonathan Carver Parkway

Administrator Loomis said this is a project of Carver County in the City of Carver. This project is in two watershed districts. Staff is recommending deferring the permitting authority for Rule B and Rule D and retaining the authority for Rule F, for steep slopes, since some of the stormwater from the project will be directed to Spring Creek.

Manager Salvato asked if Carver WMO rules are comparable to LMRWD rules. Ms. Young responded that Carver WMO rules are generally more strict with respect to erosion control and storm water management outside of High Value Resource Areas. She said that the reason staff is recommending that the LMRWD retain authority for Rule F - Steep Slopes is because that rule is unique to the District and is more strict.

Manager Salvato made a motion to defer the permitting authority for Rule B and Rule D. 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.

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

7. COMMUNICATIONS

A. Administrator Report: Administrator Loomis said she doesn't have anything to add.

B. Managers: Manager Raby said there is a bluff observation area in Eden Prairie and it is one of the last pieces of savannah in the Upper Midwest. He commented that commercial photographers inundate the area creating paths that cause erosion that destroys the prairie. He suggested that the District contact the City to see if the District can help them protect the area. Ms Young noted the county is very concerned too. She said she and her staff were in the area looking at a project for the County to protect the area. She related what she experienced while she was out there.

Manager Raby made a motion to direct staff to contact the City of Eden Prairie parks department to see if there is anything the board can support City efforts to protect the conservation area. 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.

Administrator Loomis updated the Board on efforts to find a Manager from Dakota County. She spoke with Mark Zabel from Dakota County who said they sent a notice to residents of Dakota County within the LMRWD after Manager Shirk resigned. She checked with Freshwater to get a list of Master Water Stewards that live in Dakota County and they all live in the Eagan/Inver Grove Heights WMO. Manager Raby asked if the County had an application on its website. Administrator Loomis said it was not currently posted. Manager Raby thought the District should send out a mailing of its own.

C. Committees: No report

D. Legal Counsel: No report

E. Engineer: No report

8. ADJOURN

At 9:21pm, President Hartmann made a motion to adjourn the meeting. 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, September 16, 2020 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

Dave Raby, Secretary

Attest:

Linda Loomis, Administrator

DRAFT