



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, March 20, 2024

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

Approved April 17, 2024

## 1. CALL TO ORDER

### A. ROLL CALL

On Wednesday, March 20, 2024, at 7:00 PM CST, in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Barisonzi called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD).

The first item on the agenda was the Oath of Office for Joseph Barisonzi and Apollo Lammers. Apollo Lammers was appointed to the LMRWD Board of Manager by the Scott County Board of Commissioners on February 20, 2024. President Barisonzi was re-appointed by the Hennepin County Board of Commissioner on January 24, 2024. Mr. Lammers and President Barisonzi were sworn in and executed the Oath of Office and the Manager's Bond, which were signed by Board Secretary, Lauren Salvato.

President Barisonzi asked for the roll call to be taken. The following Managers were present: Manager Laura Amundson, President Joseph Barisonzi, Manager Theresa Kuplic, Manager Apollo Lammers, 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; John Kolb, Rinke Noonan Attorneys at Law, LMRWD Legal Counsel; Troy Kuphal, District Director, and Chase Emmers, Water Resource Specialist, Scott County Soil & Water Conservation District; Patty Thomsen, LMRWD Citizen Advisory Committee; Peggy Thomsen and Vinatha Viswanathan, Hennepin County Resident

Manager Ben Burnett, Prior Lake Spring Lake Watershed District attended the meeting virtually.

## 2. CITIZEN FORUM

No one was present to address the Board of Managers.

## 3. APPROVAL OF THE AGENDA

### A. Additions, Corrections and Deletions to the Agenda

President Barisonzi introduced this item. President Barisonzi asked to remove Item 7. E. LMRWD Communication Policy from the Agenda. He asked to move Item 8. A. – Evaluation of Administrative Services Agreement from a Board discussion item to an Action Item and place it as Item 7. E. and then asked to remove Item 5. C. viii. - accumulated 2023 hours in excess of contracted amount removed from the Consent Agenda. Administrator Loomis asked that the

February 2024 invoice for Rinke Noonan, Attorneys at Law and the 4M January 2024 Bank Service Charges be removed from the agenda as the invoice was not received.

**President Barisonzi made a motion to approve the agenda with Item 7.E. – LMRWD Communication Policy removed, move Item 8.A. – Evaluation of Administrative Services to Item 7.E., remove Item 5.C.viii. - accumulated 2023 hours in excess of contracted amount from the Consent Agenda, remove Item 5.C.iii. - February 2024 invoice for Rinke Noonan and Item 5.C.xiv. – 4M Fund, January 2023 Bank Service charges from the agenda. [There was no second to the motion.] Upon a vote being taken the motion was carried unanimously.**

#### **4. PUBLIC HEARINGS & PRESENTATION**

##### **A. Presentation of report from Scott County Soil & Water Conservation District on 2023 monitoring, technical, education and other conservation services**

Troy Kuphal, District Director, from the Scott County Soil & Water Conservation District, introduced himself. Mr. Kuphal then introduced Chase Emmers, Water Resource Specialist. Mr. Emmers proceeded to present the findings of water resource monitoring in 2023 to the Board.

Mr. Emmers provided a map of where various monitoring activities occur, Eagle Creek, Dean Lake, and Savage Fen. He first discussed thermal monitoring of Eagle Creek. He noted that he was able observe actual trout in the Creek while monitoring. Temperatures fall mostly within the ideal temperatures for trout, with a few warmer spikes throughout the season. He noted that there were problems with equipment that had to be resolved. Managers asked about whether Brown Trout or Brook Trout were observed. Mr. Emmers said that what he saw was mostly Brown Trout.

President Barisonzi asked about the impact of MnDOT facilities on Eagle Creek. Della Schall Young, Young Environmental Consulting Group, explained that MnDOT must account for trout streams when managing stormwater and cannot negatively impact trout waters. She noted that is one of the reasons that monitoring is important, impacts to water resources can be noticed and reported.

Mr. Emmers then presented findings on the water quality sampling of Eagle Creek. There was a noticeable increase in Total Suspended Solids. There is no easily identified cause. It could be caused by all the wildlife in the area or a result of erosion near the monitoring station. He noted there was vandalism at monitoring station and has spoken to the Met Council about relocating the station or installing security cameras. He noted the high level of e. coli at certain times of the year - especially winter. The source of the e. coli has not been identified; it may be caused by the large number of waterfowl attracted to open water in the winter. Manager Amundson remembered that this pollutant was discussed last year. Ms. Schall Young provided some ideas to determine what the source is. Manager Salvato asked about the citizen monitoring program and if that could give the LMRWD more immediate information. President Barisonzi suggested that a recommendation be brought back to the Board in the future.

Mr. Emmers showed pictures of beaver activity in the area.

He provided information on Dean Lake. He said data at Dean Lake was influenced by the lower water levels in 2023. He noted there were not any results that should cause concern. He then presented findings for monitoring in Savage Fen. He noted that some of the wells were dry because of the lack of rainfall, but water levels rebounded after rainfall in the late summer and fall.

President Barisonzi asked if the data reported by Mr. Emmers was included in the Fen Study that was presented at the February Board meeting. Ms. Schall Young reported that it was not, because this is new data, but the historical data was included. Mr. Emmers explained how data is reported to the DNR and permanently stored.

**President Barisonzi made a motion to accept and authorize execution of 2024 Agreement between the Lower Minnesota River Watershed District and the Scott Soil and Water Conservation District for Monitoring, Technical, Education and Other Conservation Services contingent upon addition of a clause that requires an approval when any cost incurred more than the contracted amount requires an addendum to the agreement. Manager Amundson seconded the motion. Upon a vote being taken the motion was carried unanimously.**

## **5. CONSENT AGENDA**

President Barisonzi introduced the item.

President Barisonzi asked to remove Item 5.C. viii. From the consent agenda and consider it in its normal sequence on the agenda.

### **A. Approve Minutes February 21, 2024, Regular Meeting minutes**

### **B. Receive and file February 2024 Financial Report**

### **C. Approval of Invoices for payment**

- i. Clifton Larson Allen (CLA) - Financial services through February 2024**
- ii. TimeSavers Off Site Secretarial – Preparation of January 2024 meeting minutes**
- ~~**iii. Rinke Noonan, Attorneys at Law – February 2024 Legal Services**~~
- iv. Daniel Hron – March & April 2024 office rent**
- v. US Bank Equipment Finance – March 2024 copier lease payment**
- vi. Young Environmental Consulting Group, LLC – February 2024 technical, and Education and Outreach services**
- vii. Naiad Consulting, LLC – February 2024 administrative services, mileage, and expenses**
- viii. Naiad Consulting, LLC – accumulated 2023 hours in excess of contract**
- ix. 106 Group – February 2024 services related to Area #3**
- x. 106 Group – February 2024 services related to Vernon Avenue**
- xi. Bolton & Menk – Engineering Services through February 21, 2024, related to Vernon Avenue**
- xii. WSB – Area #3 land acquisition services**
- xiii. Liberty Mutual – payment of 2024-2025 Surety Bond**
- ~~**xiv. 4M Fund – January 2024 financial service charges**~~

### **D. Report from the Citizen Advisory Committee**

### **E. Adopt Resolution 24-04 Rescinding Resolution 23-14 Supporting Change of Boundary Between Minnehaha Creek Watershed District, and Lower Minnesota River Watershed District**

**Manager Salvato made a motion to approve the Consent Agenda with the invoice for March office rent removed. Manager Amundson seconded the motion. Upon a vote being taken the motion was carried unanimously.**

**Item 5.C. viii. - Naiad Consulting, LLC – accumulated 2023 hours in excess of contract allowance**

President Barisonzi commented that the Administrator Agreement provides for prior approval by the Board of Managers before hours over 150 hours per month are allowed. He noted that he was not opposed to the payment of the invoice, he just wanted to make sure the LMRWD

was being intentional about the services it was paying for. Administrator Loomis explained that she was aware that the Administrator Agreement requires prior approval of hours that exceed 150 hours per month. She explained that it is not always practical to get prior approval, as the Board meets once a month and that when hours are required to conduct the work of the LMRWD it is usually between meetings. She noted that previous Board allowed hours to be carried over to the next month and then it usually equaled out at some point. Administrator Loomis further explained that excess hours have only been incurred once, maybe twice over the course of her tenure with the LMRWD. She explained that the amount of work the Board of Managers has required since September of 2023 has increased and she wasn't able to catch up. She didn't want to carry hours over from one year to the next and that was why the Board was asked at the December meeting to allow payment of the excess hours from 2023

President Barisonzi stated that he just wants to make sure that the LMRWD is following what has been stated in the agreements the LMRWD has.

President Barisonzi requested that an amendment to the Administrative Services Agreement be drafted to address this and presented to the Board for approval.

**President Barisonzi made a motion to approve payment of the Item 5.C.viii. and that an amendment to the agreement be brought back to the Board allowing. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried unanimously.**

## **6. PERMITS & REPORTS ON STANDING BUSINESS ITEMS**

### **A. LMRWD Permit Renewals**

President Barisonzi introduced this item.

**Manager Salvato made a motion to renew permits as recommended in Table 1 of Technical Memorandum – March 2024 Permit Renewal Requests dated March 13, 2024. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried unanimously.**

### **B. MN Bluffs Regional Trail (LMRWD No. 2023-017)**

President Barisonzi introduced and moved this item. Manager Salvato questioned tree removal that is occurring in the project area. Administrator Loomis reported that she had asked the city about the tree removal but hadn't received an answer.

**President Barisonzi made a motion to conditionally approve a permit for MN Bluffs Regional Trail (LMRWD No. 2023-017) subject to the receipt of a copy of the NPDES construction stormwater permit, final construction plans signed by a professional engineer, contact information for the contractor, contact information for the person(s) responsible for erosion and sediments controls inspections and maintenance, documentation of approval from the City of Chaska, documentation of approval from the MN Department of Natural Resources, signed JPA between Carver County Regional Rail Authority and the City of Chaska, designation of the individual who will remain liable to the LMRWD for performance under Rule B and Rule C from the time permitted activities commence until vegetation is established and the LMRWD has certified satisfaction with erosion and sediment control requirements'. Manager Kuplic seconded the motion. Upon a vote being taken the motion was carried unanimously.**

## **7. ACTIONS ITEMS**

### **A. Lower MN River East One Watershed One Plan**

President Barisonzi introduced this item. He explained that at the last meeting two board members were directed to prepare a letter regarding the draft Lower Minnesota River East One Watershed One Plan. He commented that the letter was really well done.

**[No motion was made. However, President Barisonzi asked that all in favor of sending the comments and letter say aye.] Upon a vote being take, the motion carried.**

**B. Biennial Solicitation of Letters of Interest for legal, technical & other professional services**

President Barisonzi introduced this item and offered the following motion:

**President Barisonzi made a motion to authorize hiring Young Environmental Consulting Group, LLC as the District Engineer and direct the Administrator to negotiate a contract extension for review and approval by the Board. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried unanimously.**

**President Barisonzi made a motion to authorize Young Environmental Consulting Group to evaluate and engage engineering firms for inclusion in the pool with a report back to the Board at the next meeting on the progress and status of all application. Manager Kuplic seconded the motion.**

Manager Amundson asked if past practice has been to include all the firms who submitted applications in the pool, as long as there are not any disqualifying factors. Ms. Schall Young stated that Manager Amundson outlined the common practice. She noted that the matrix put together is the same matrix used in the past. She noted that she reviewed the application and said they were all qualified. Manager Salvato questioned the goal of the direction; would it be to vet them further? President Barisonzi said that it would be to defer to the person that would be working with them, giving them the authority treat them as she sees fit. Ms. Schall Young explained the process that has been used in the past.

Administrator Loomis questioned the direction provided by the motion, that Young Environmental would review the submittals and then come back to the Board with recommendations. President Barisonzi clarified that the motion was to include all the submittals in the pool and proceed.

**Upon a vote being taken, the motion carried unanimously.**

President Barisonzi said two applicants for education and outreach were received and he considered that both were worthy of interviews.

**President Barisonzi made a motion to authorize the Personnel Committee with the support of the Administrator to review the applicants and proposed rubric, revise the rubric as necessary, draft question for the candidates (same questions for all candidates), send questions and request interviews for all candidates, interview the candidates, and make recommendations to the Board. Manager Salvato seconded the motion.**

Manager Amundson said she didn't feel that it was necessary to be interviewed. She noted that she has prepared many letters of interest and the second proposal received was not what she considers to be a letter of interest. President Barisonzi defended the second submittal that they responded with what he considers to be a letter of interest.

**Upon a vote being taken the motion carried.**

President Barisonzi noted the LMRWD asked for letters of interest for legal services.

**President Barisonzi made a motion to authorize the personnel committee, with the support of the Administrator to conduct interviews for the applicants for Legal Counsel including the following steps; review applicants and proposed rubric, revise rubric as necessary, evaluate the existing candidates and choose those to be interviewed, draft question for candidates (same questions for all candidates) send questions and request interview for all candidates interview candidates and make recommendations to the Board. Manager Kuplic seconded the motion [the audio does not indicate this motion was seconded; President Barisonzi responded that Manager Kuplic seconded the motion when asked by the Administrator]**

Manager Kuplic thought it would be beneficial to include Ms. Schall Young when considering which legal counsel to choose.

Ms. Schall Young said that the relationship between the District Engineer and Legal Counsel is a critical relationship, especially when it comes to implementation of the permitting program. It is key that the relationship has confidence and trust. President Barisonzi asked if Manager Kuplic would like to add “with the support of the District Engineer” to the motion. Manager Kuplic said that she would like to add that to the motion. President Barisonzi said he would accent that as a friendly amendment.

**Upon a vote being taken the motion carried.**

**C. Education & Outreach**

President Barisonzi introduced this item.

**Manager Kuplic made a motion to table item 7.C. -LMRWD Social Media Content and Strategy. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**Manager Salvato made a motion to approve the recommendations of the Citizen Advisory Committee and award educator min-grant as follows: Integrated Arts Academy - \$475; Friends of the Mississippi – Environmental Stewardship Institute - \$500; Shakopee Area Catholic Schools - \$500; Prior Lake High School - \$500; and Minnesota Valley Refuge Friends - \$500. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**D. Proposed Partnering with the MN River Collaborative on the Water Storage Study**

President Barisonzi introduced this item.

The Board discussed the project overall and the proposed recommendation by staff. President Barisonzi noted there were no financial commitments in the motion being considered.

**Manager Salvato made a motion to adopt Resolution 24-05 – Developing a Scope of Study to Identify Areas of the Minnesota River Basin Suitable for Upland Storage. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.**

~~**E. LMRWD Communication Policy**~~ – This item was removed from the agenda.

**E. Evaluation of Administrative Services**

President Barisonzi introduced this item. He explained that he and Manager Salvato prepared a memo that has been shared with the Board. He noted that this is not an evaluation of the performance of the current administrator but is looking to the future to make sure the LMRWD has the capacity to accomplish the goals of the LMRWD.

He noted that three questionnaires were prepared with recommended actions to be taken. He asked to make a change to the recommendation by having the self-evaluation first and then the board evaluation would occur.

**President Barisonzi made a motion to authorize the Personnel Committee to solicit, collect and aggregate information about the Administrator Position using the materials developed presented to the Board. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**F. MPCA Lower Minnesota River Watershed Surface Water Monitoring Request Guidance**

President Barisonzi introduced this item.

**Manager Salvato made a motion to recommend creeks (Ike's Creek, Unnamed Creek #1, and Spring Creek) to the MPCA for monitoring. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**G. Fen Stewardship Plan**

President Barisonzi introduced this item.

President Barisonzi asked if they should set the meeting date. Administrator Loomis said a meeting poll could be used if potential dates were identified. President Barisonzi said he would get dates.

**Manager Kuplic made a motion to receive the plan and post it to the website and to call a special meeting of the Board of Manager to discuss the Fen Stewardship Plan and set the date by polling the Board members. The motion was seconded by Manager Salvato. Upon a vote being taken, the motion carries unanimously.**

**H. Area #3**

At this point the Board of Managers closed the meeting pursuant to MN Statutes section 13D.05, subd. 3.c.3, to discuss the purchase of an easement or fee ownership interest of a portion of property located in Eden Prairie, Hennepin County PID #3511622230013 related to the Study Area #3 project.

The Board came out of closed session and adopted Resolution 24-06 Authorizing Acquisition of Land by Eminent Domain.

**Manager Salvato made a motion to adopt Resolution 24-06 Authorizing Acquisition of Land by Eminent Domain. The motion was seconded by Manager Kuplic. Upon a vote being taken, the motion carried unanimously.**

**8. BOARD DISCUSSION ITEMS**

~~A. Evaluation of Administrative Services – Moved to Item 7. E.~~

**B. 2024 Legislative Activities Update**

President Barisonzi introduced this item. President Barisonzi informed the Board that the legislation funding River Watch was forwarded for inclusion in the omnibus bill. Rough fish bill was moving forward also.

**C. Education and Outreach (E&O) Program Recommendations Summary Report**

President Barisonzi asked the Board of Manager to read the information from the January 11 work session.

**9. FOR INFORMATION ONLY**

**A. 535 Lakota Lane, Chanhassen – work without a permit**

Della Schall Young and Hannah LeClaire, Young Environmental Consulting Group, reported that the Engineer for the property owner has been in contact with the LMRWD and has indicated that he will not be able to certify the retaining wall. They are working to provide the LMRWD with a plan for the retaining wall and a stormwater management plan.

**B. LMRWD Permit Program Summary**

This item was for information only, there was no discussion of this item.

**10. COMMUNICATIONS**

- A. **Administrator Report:** Administrator Loomis reported that the March Administrator Report was complete but had not been sent to the Board. She informed the Board of the status of the Ike's Creek restoration plan and that USFWS is considering applying for a grant through the America the Beautiful Grant, that was recommended by Manager Salvato. Scott County SWCD has some workshops planned and has included LMRWD logos on all promotional materials. The city of Chanhassen has requested information about the LMRWD to include in a comprehensive communication to residents about watershed within the City of Chanhassen. Administrator Loomis informed the Board that she had attended Minnesota Association of Watershed Administrators meeting and mentioned that she learned about a project where BWSR is assessing water storage opportunities at the major watershed level. One of the watershed that is in this program is Yellow Medicine, which is in the MN River Basin. Chaska is looking for funding for a ravine stabilization project. Request from Geosyntec to partner in a grant through LCCMR to investigate current drainage design methods. The Vernon Avenue project is ready to go out for bid, however the LMRWD needs to be sure it can fund the project before going out for bid. Staff is looking into funding options.
- B. **President:** No report
- C. **Managers:** Manager Salvato indicated she should be at the Board meeting in April, as it is before her due date. However, she wanted the other Managers to be aware that she may not be able to attend.
- D. **Committees:** No report
- E. **Legal Counsel:** No report
- F. **Engineer:** No report.

**11. ADJOURN**

**At 9:03 pm, President Barisonzi adjourned the meeting.**

**The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, April 17, 2024, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

Attest:

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Lauren Salvato, Secretary

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Linda Loomis, Administrator