



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, December 16, 2020

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

Approved January 20, 2021

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

On Wednesday, December 16, 2020, at 7:07 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, and Manager Dave Raby. Manager Lauren Salvato joined the meeting at 7:10. In addition, the following joined the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, and Katy Thompson, 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 Len Kremer, David Minge and Ted Suss, Izaak Walton League. Lisa Frenette, Frenette Legislative Advisors, LMRWD lobbyist, joined the meeting at 7:34 pm.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis said she had no additions or changes to the agenda.

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

#### 3. CITIZEN FORUM

Administrator Loomis said that she did not receive communication from anyone who wished to address the Board.

#### 4. CONSENT AGENDA

President Hartmann introduced the item. Manager Raby noted two revisions to the November 18, 2020 meeting minutes. Under the Consent Agenda, under Item 4. E.; the sentence is incomplete. He asked for a correction to the minutes under Item 5. A. MAWD. He said that it should say that he said he would attend the MAWD Annual meeting if Manager Salvato was unable to attend.

- A. Approve Minutes November 18, 2020 Regular Meeting
- B. Receive and November 2020 Financial reports
- C. Approval of Invoices for payment

- i. **Frenette Legislative Advisors - October Lobbying expense**
  - ii. **Rinke Noonan, Attorneys at Law - September 2020 legal services**
  - iii. **Scott County Soil & Water Conservation District - Q2 2020 monitoring, cost share and technical services**
  - iv. **US Bank Equipment Finance - November 2020 payment on copier lease**
  - v. **TimeSaver Off Site Secretarial - Preparation of September 2020 meeting minutes**
  - vi. **Young Environmental Consulting Group - September 2020 technical, education & outreach services**
- D. Authorize execution of Addendum to Recording Secretary Service Agreement with TimeSaver Off Site Secretarial, Inc. dated October 22, 2020**
- E. Set 2021 Meeting Calendar**
- F. Approve 2021 Cost Share Restoration and Water Quality Improvement Grant Program**
- G. Adopting 2021 Budget & Certification of property tax levy payable 2021**

**Manager Raby made a motion to approve the Consent Agenda amending the November 18, 2020 meeting minutes as noted. 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. NEW BUSINESS**

### **A. Presentation by Friends of the Minnesota Valley and Izaak Walton League**

Administrator Loomis said Former Congressman, Judge David Minge, Former Manager Len Kremer, Ted Suss, Executive Director of Friends of the Minnesota Valley and President of the Minnesota Valley Chapter of the Izaak Walton League, and Don Arnosti asked to address the Board of Managers.

Before beginning their presentation, Mr. Ted Suss, Executive Director of Friends of the Minnesota Valley, thanked the Board for its support of the River Watch Program.

Mr. Suss said that Mr. Kremer was going to make the presentation. Mr. Kremer was having some issues with his connection to the meeting, so Mr. Suss continued. He said that he was joining the meeting in his capacity as a member of the Minnesota Izaak Walton League. He explained that the Izaak Walton League has an initiative that was funded through the McKnight Foundation called the Upper Mississippi Initiative. Internally within that project is the Minnesota River component. From this point forward he will refer to that component as the Minnesota River Initiative.

For starters, a spreadsheet was put together of every drainage system within the 34 counties of the MN River basin. Within that list, they, primarily David Minge and some interns from the Minnesota State University Mankato, identified systems that they thought had the most potential to increase water flow and dump sediment into the Minnesota River. They have identified several of these drainage projects which could be improved. One in Lyon County, County Ditch 14, one in Yellow Medicine, County Ditch 9, one on Limbo Creek, which is Renville County Ditch 77 and another one in Cottonwood County, Ditch 24. He noted the Izaak Walton League objected to the Lyon County project primarily because the outlet flow would be many times greater than the current system. He noted that farm land is being flooded and can't be farmed. Portions of the City of Springfield flood every time there is a heavy rain in the Cottonwood River watershed. This is the reason projects are being petitioned. Rather than continue to object to the project they looked for ways to improve it.

Mr. Suss said that Mr. Kremer and another engineer from Barr Engineering Company developed a water storage plan for Lyon County Ditch 14 that would significantly reduce the outlet flow

into the Cottonwood River. The plan includes water storage; however, the petitioners are not interested in paying for water storage. Mr. Kremer has approached BWSR about the possibility of funding a demonstration project. Mr. Suss identified the location of the storage project and said they have spoken to the petitioner about the improvement project.

Mr. Suss said the reason they asked to be on the LMRWD Board agenda is to let the Board know what they have been doing and to ask for the Board's support of their actions on a case by case basis. They are not asking the LMRWD to become a party to the objections they have filed or the lawsuit on Limbo Creek, which Mr. Suss explained. They feel that the LMRWD experiences the most negative impact from the dramatic increases in flow from agricultural drainage.

Mr. David Minge said his purpose in asking to be on the agenda tonight was to inform the Board of Managers of what the Izaak Walton project is all about. The most dramatic impact to water quality is downstream from Belle Plaine or Jordan. He noted the expense being incurred to remove sediment from both the Minnesota River and the Mississippi. He commented on the tour where the slip and dredging needs were pointed out. Most of the sediment is not coming from farm fields but coming from the bluffs and banks of the river. He talked about the environmental review process and the role of the DNR in approving drainage projects. He spoke about the Limbo Creek project in Renville County and the lawsuits that have been filed.

Mr. Minge states that he wanted to bring the Board up-to-date with what they have been doing and that the LMRWD interest in the Minnesota River is affected more directly than any other watershed district in the entire Minnesota River Basin and that therefore they would be interested in the Izaak Walton League activities.

Manager Raby wanted to clarify that this was a presentation of information and no action was being requested. Mr. Minge stated that was correct. Mr. Minge noted that an amicus brief to the Limbo Creek lawsuit is being prepared by a coalition of several other groups and the Board of Managers could certainly decide to become a party to the brief. Mr. Suss affirmed that no action is being requested at this time. He noted the goal of the actions being taken by the Izaak Walton League is to prevent a problem from becoming worse and to spare the district expense. He reiterated that water needs to be kept on the land where it falls

President Hartmann noted that they are talking about a lot of small projects that add up to a lot. President Hartmann asked that they keep the LMRWD Board of Managers updated on their progress and activities.

Ms. Lisa Frenette, lobbyist for the LMRWD, provided information regarding what is happening at the State level on managing drainage. She noted the biggest problem is that landowners do not necessarily want to pay to store water on the land. She also added that the agricultural community feels they are bearing the brunt of the blame for the increased flow of water; that cities are not assuming a share of the blame.

## **6. OLD BUSINESS**

### **A. Update from MAWD**

Administrator Loomis commented on the resolutions presented to the MAWD membership and said the request by the LMRWD Board to not sunset the creation of a MN River Basin Board was not considered. She reported that when MAWD was asked how to request MAWD not sunset a resolution adopted by the membership, she was told the LMRWD should submit resolution. The LMRWD submitted the resolution and was told the resolution would get a hearing at the annual meeting. Then after the conference began, everyone was told that only resolutions that were

received by the resolutions committee by the resolution deadline would be heard. The reasoning was that the MAWD by-laws did not allow for consideration of any other resolutions.

Administrator Loomis also informed the Board that MAWD bylaws did not allow for proxy voting. Administrator Loomis reminded the MAWD Executive Director that proxy voting was allowed at a special meeting of the membership that was called in Bemidji a couple of years ago. The Executive Director remembered that, but was not sure why that was allowed at that time.

The board talked about reasons not to belong to MAWD. Manager Raby said MAWD is not doing anything to support the LMRWD. He said that he feels that there is no reason for the District to remain a member. President Hartmann asked about the next payment of dues. Administrator Loomis said dues are usually paid in March.

Manager Salvato asked about the resolution. Administrator Loomis said it was submitted after the required date, but it was not a new resolution, it was to request that a resolution already adopted by MAWD not sunset. The Board held discussion about benefits of membership.

Administrator Loomis said MAWD has been working to provide more benefit to membership. President Hartmann asked if the District should send a statement to MAWD and give them one last chance. Manager Raby noted that WMOs are allowed membership at a fraction of the membership the LMRWD pays. He feels that the District is paying money from LMRWD constituents and get nothing in return.

**Manager Raby made a motion to not renew membership in MAWD. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Frey, Raby and Salvato; the following voted against: None. President Hartmann abstained.**

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

No new information to report since last update.

**C. City of Carver Levee**

Administrator Loomis said she was informed the City of Carver was awarded \$150,000 by the State of Minnesota under the Flood Hazard Mitigation Program. She said the City will need to match the funding they received.

**D. Remote meeting participation**

No new information to report since last update.

**E. Dredge Management**

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

Administrator Loomis said the District received the change order and the request for payment both of which were included in the packet. She noted the cost was higher than the original bid because additional aggregate, less than 3-inch, needed to be placed under the roadways because of precipitation at the site. Even though the cost was higher than the bid accepted, the end cost was below other bids received. Staff has reviewed all the documentation and has ordered payment to Meyer Contracting.

**ii. Private Dredge Material Placement**

No new information to report since last update.

**F. Watershed Management Plan**

Administrator Loomis had nothing to report.

**G. 2020 Legislative Action**

Lisa Frenette said the LMRWD needs to defend the dredge management funding. This year the focus of the legislative session will be on the budget. She has made contact with the chairs of the House and Senate Environment Committees. She noted that agencies were told to expect a 10% reduction in funding.

She asked if the Board wanted to pursue the resolution the LMRWD requested that MAWD not allow to sunset. She suggested getting language drafted along these lines in order to familiarize legislators with it and then work on getting it passed next session which will focus more on policy. (at this point Ms. Frenette left the meeting)

#### **H. Education and Outreach Plan**

Administrator Loomis said Ms. Della Young suggested that the press release the LMRWD sent at the time the video was released be sent to all the individuals that attended public hearings during the plan amendment process. The press release was sent to them and the District received communication from several people interested in the Citizen Advisory Committee. The board talked about the video.

Administrator Loomis said that she has received requests from several cities about putting the video on local cable television. Manager Raby said he would like to see the video on local TV stations. He is very happy with the result of the video and thanked the Board members that appeared in the video. He went on that he thinks the response to the video is the kind of visibility the District has been looking for.

#### **I. 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 the RFP was in the meeting packet and staff is looking for approval by the Board before publication. She noted that rather than print the whole RFP the notice published will include a link to the LMRWD website.

Ms. Della Young talked about the RFP. She noted that the RFP was discussed with the City of Eden Prairie, since they have more experience with this kind of activity - issuing RFPs.

Manager Raby commented on page 3 under task 2 - Deliverables it mentions a value engineering workshop. He said he didn't see that in the scope. Ms. Young said that task 2 has been changed 3 or 4 times during the drafting of the RFP. Task 2 started off being named Value Engineering Workshop, but staff recognized that terminology has a very specific meaning in the engineering space. That is why it was changed to Alternatives Review and Validation. That will be modified - the deliverables will be modified in that section.

Manager Raby asked that references to the LMRWD be consistent. He said some places it is the 'LMRWD' and in other places it is the 'District'.

Manager Raby referred to the cost sections and the hourly rates. Manager Raby wondered about the total cost. He said the document asks for rates, but not the cost. He thinks the LMRWD wants both and that it should be clearly stated.

Ms. Young clarified that Manager Raby is okay with the discussed modification to Task 2. Manager Raby said that he was.

**President Hartmann made a motion to approve the Request for Proposals subject to the modifications requested by Manager Raby. 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.**

**J. Project/Plan Reviews**

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

**i. 77th Street Underpass**

Administrator Loomis said this project was tabled at the October meeting. Revisions were made to the project and it now meets the LMRWD standards. LMRWD staff has reviewed the revisions and are recommending approval.

Ms. Young clarified that an infiltration system was included and features that were missing in the previous proposal have now been included so all the district's requirements are being met.

**President Hartmann made a motion to approve permit 2020-132 for the 77th Street Underpass project subject to the conditions noted in the technical memorandum dated December 10, 2020. 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.**

**ii. Canterbury Crossing**

Administrator Loomis said this is a housing development being proposed at Canterbury Park in the City of Shakopee and staff has reviewed all the documentation and is recommending approval with the conditions listed in the meeting packet.

**Manager Raby made a motion to approve permit 2020-135 for Canterbury Crossings subject to conditions noted in the technical memorandum dated December 11, 2020. 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.**

**iii. County State Aid Highway 11/Jonathan Carver Parkway**

Administrator Loomis said this project is a transportation improvement project proposed by Carver County. She noted this project lies within both the LMRWD and Carver County WMO. The LMRWD gave its authority for compliance with stormwater rules to the WMO since its standards are stricter. The LMRWD retained the authority for rule F steep slopes, because the WMO does not have standards for steep slopes and the project has some drainage directed to Spring Creek. Staff has reviewed the plans and is recommending approval subject to conditions stated in the technical memorandum.

Ms. Young stated the project has been designed to not cause any adverse issues to the current situation.

The board talked about how fast this area is growing.

**Manager Raby made a motion to approve a permit 2020-110 for the CSAH 11 subject to the conditions noted in the technical memorandum dated December 10, 2020. 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.**

**K. MPCA Soil Reference Values - no change since last update**

**7. COMMUNICATIONS**

**A. Administrator Report:** Administrator Loomis asked if the Board had been able to review the report, since she posted it to the website and didn't inform the Board that it had been posted. Managers indicated that had been able to read it. Manager Raby questioned an attachment to the report for the Peterson Wetland Bank. He didn't see where in the report this was discussed. It was on page 4 of the report; however it did not reference the attachment. She said this will be turned from farmland into wetland to get wetland credits. The credits will go into a wetland bank. President Hartmann asked how wetland banking works. Attorney Kolb talked about the restrictions and wetland banking. The Petersons will continue to own the land with restrictions

President Hartmann asked about the timing. Administrator Loomis said she will let the board know.

**B. Managers:** No Report

**C. Committees:** No report

**D. Legal Counsel:** No report

**E. Engineer:** No report

**8. ADJOURN**

**At 8:37pm, 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, January 20, 2021 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

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Lauren Salvato, Secretary

Attest:

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Linda Loomis, Administrator