



Item 4A
LMRWD 12-20-17

Minutes of Regular Meeting
Board of Managers
Wednesday October 25, 2017
County Board Room, Carver County Government Center, 7:00 p.m.
Approved December 20, 2017

1. CALL TO ORDER AND ROLL CALL

On Wednesday, October 25, 2017, at 7:00 PM in the Board Room of the Carver County Government Center, Chaska, Minnesota, President Shirk 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: President Yvonne Shirk, and Managers Jesse Hartmann. In addition, the following were also present: Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Advisor; John Kolb, Rinke Noonan, Legal Counsel and Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator. The following members of the public were also in attendance: The Honorable Gene Winstead, Mayor of the city of Bloomington; Glen Markegard, City of Bloomington; Bryan Gruidl, City of Bloomington; Steve Christopher, Board of Water & Soil Resources; Nora Beall; Kevin & Laura Bluml; Lindsey Albright, Dakota County SWCD; Todd Johnson, Liane Laurian; Gregg Porter; Ron Nelson; Tom & Vicki Roberts; Greg & Jan Jones; Duane Saunders; Janet & Larry Butler; Tim Marpe; Craig Diederichs; Micah Heckman, city of Shakopee; Mark Norton; Virginia Amiot; Bev & Jack Miles; Daniel Miller; Bob & Teresa VanCleave; Steve Dalsin; Bob Borgerding; Dave Modrow, city of Eden Prairie; Dave & Sharon Shervey; Stacy Harwell, WSB & Associates; Michael Brown; Brian Dueber; Ferin Davis; Marina Weddington; Al & Dawn Noard; Adam Buenz; Tom Moehn; Rod Rue, city of Eden Prairie; Curt Bardal; Chris Penwell, Siegel Brill; Christi Duffy; Douglas Bartyzal; Cheryl Norton; Mike Gilliland; Jennifer Bader

2. APPROVAL OF THE AGENDA

Administrator Loomis requested removal of Item 4. A. - Approval of September 20, 2017 Regular Meeting and the addition of New Business Item 6. A. - Receive and File Letter and Resolution from the city Eden Prairie.

Manager Hartmann made a motion to approve the agenda as amended. The motion was seconded by President Shirk. The motion carried unanimously.

3. CITIZEN FORUM

There were no citizens who wished to address the board.

4. CONSENT AGENDA

The Consent Agenda included the following items:

~~A. Approval of Minutes for September 20, 2017 Regular Meeting~~

- B. Approval of Financial Reports**
- C. Presentation of Invoices for payment**
 - i. **Culligan Bottled Water - July & August water for Chaska office**
 - ii. **Manager Hartmann - for 1st quarter 2017 per diem, mileage & expenses**
 - iii. **Rinke Noonan - for July & August 2017 legal services**
 - iv. **Waypoint Insurance Advisors - for Director's & Officer's Insurance**
 - v. **Burns & McDonnell - for July 2017 engineering services**
 - vi. **Steinkraus Development LLC - for October office rent**
 - vii. **US Bank Equipment Finance - October 2017 copier lease payment**
 - viii. **Western National Insurance - for general liability insurance**
 - ix. **Star Tribune - for legal notice of 2018 Budget Hearing**
 - x. **Time Saver Off Site Secretarial- for preparation of August 2017 meeting minutes**
 - xi. **Carver County- for 3rd quarter 2017 accounting & financial services**
 - xii. **Naiad Consulting - for June & July 2017 administrative services**
- D. MOA with Carver County WMO**
- E. Approval of Mendota Heights Surface Water Management Plan**
- F. Plan Amendment change order with Burns & MacDonnell**

President Shirk made a motion to approve the consent agenda as amended. The motion was seconded by Manager Hartmann. The motion carried unanimously.

5. PUBLIC HEARING

A. Public Hearing for Major Watershed Management Plan Amendment

President Shirk read a prepared statement regarding the order of proceedings for the public hearing.

Administrator Loomis provided background information on the establishment of the watershed district. Five counties petitioned the Minnesota Water Resources Board (now the Board of Water and Soil Resources) in order to provide a local sponsor for the US Army Corps of Engineers maintenance of the navigation channel in the Minnesota River. The District was established in 1960. She explained the purpose of the District.

Administrator Loomis explained the history and purpose of the Watershed Management Plan. She stated the 2011 plan was amended in 2014 and a clarification to the plan was issued in 2016. She explained the process used for preparing the Draft Plan Amendment, including meetings of the Technical Advisory Committee (TAC) and meetings with individual cities. The Board of Water and Soil Resources (BWSR) was petitioned regarding the Major Plan Amendment July 5, 2017. Municipalities, counties, the TAC and others were notified July 15, 2017. The deadline for the 60-day comment period was set as September 1, 2017. Because of the delay in notification, the comment period was extended to September 20th. The legal notice for the hearing this evening was published in the Star Tribune newspaper on Sunday, October 15 and 22 and posted on the LMRWD website.

Legal Counsel Kolb talked about the statutes for watershed districts. He said the legal authority for the Watershed Management Plan is found in MN Statutes Chapters 103b, particularly 231 & 235. A public hearing must be held on the draft plan and all the comments are forwarded to BWSR as part of the Plan approval process.

Ms. Young provided a summary of the plan amendment process. The process started in 2016 and went in to early this year. TAC meetings were held and there were individual meetings with a number of cities. She explained that during the Plan Clarification the LMRWD conducted in 2016, the TAC recommended the LMRWD consider updating its plan to align more closely with

the cities requirement to update their local water management plans. The Plan focuses on the mission of the LMRWD.

The first part of the Plan Amendment process was review of municipal and District standards. The district acknowledged there were some gaps in management of sensitive resources; resources that the plan refers to as high value resources and the bluff areas. To address the gaps the District proposed changes to the existing erosion control standard, the stormwater management standard, the water appropriation standard and the bluff standard. The erosion control, stormwater and water appropriation standards are directly related to the high value resources; fens and trout waters.

She showed four overlay districts that were created within the watershed district to protect the high value resources. Ms. Young said the first area is for Seminary fen and unnamed trout streams. The next area is adjacent to Savage fen, Eagle creek and some unnamed trout streams. The next area is Black Dog fen, Black Dog Lake, Nichols Fen and a series of unnamed trout streams. She noted there are multiple names for these resources. The last area is Gun Club Lake and Quarry Island fen. These are the four areas where it is proposed to put special standards in place. She then explained the proposed standards for the High Value Resource Areas and triggers for imposition of the proposed standards.

Ms. Young then proceeded to explain the proposed changes to the standards for bluff areas. The definition of bluff would be modified to include steep slopes that are prone to failure and erosion. Steep slopes would change from 30% to 18%; 30% is the existing definition. The new standard would not be tied to shoreland and the setback for structures will increase from 30 feet to 40 feet.

Ms. Young said then showed a series of maps showing current areas protected by the standards in the District's 2011 Plan and the differences with the proposed standards. The shapefiles for these maps will be made available to the municipalities and put on the LMRWD website along with the presentation. She pointed out the lighter areas are already under the district bluff standards. President Shirk asked if the maps being shown reflected the current standard. Ms. Young clarified that yes that is correct.

Ms. Young said based on these maps, the number of properties affected by the current standards, which was approved in 2011, 30% slope and 30-foot setback, would include: 511 homes in Bloomington, 226 in Burnsville, 121 in Carver, 54 in Chanhassen, 33 in Chaska, 141 in Eden Prairie, 37 in Eagan, 5 in Fort Snelling, 1 in Lilydale, 15 in Mendota, 16 in Mendota Heights, Metropolitan Airport Commission 1, 109 in Savage and 88 in Shakopee. The number of parcels was pulled from the county records for Hennepin Carver Dakota and Scot to determine the number of properties being impacted.

Ms. Young explained the 30% map was developed using information created by the DNR to map public waters for the state buffer requirements. Ms. Young showed maps showing the additional impact of 18% slopes as well as the 30% slope. Lastly, she showed maps with the 30% slopes, the 18% slopes and the 40 foot setback. The changes to the standards being proposed would impact the total number of properties as follows: in Bloomington, 676 total properties, for a net change of 164; in Burnsville, 363 properties for a net change of 77; in Carver, 159 for a net change of 38; in Chanhassen, 61 for a net change of 11; in Chaska, 84 for a net change of 51; in Eden Prairie, 229 for a net change of 84, in Eagan, 49 for a net change of 12; Fort Snelling, 5 for no change; in Lilydale 1 for no change; in Mendota, 16 for a net change of 1; in Mendota Heights, 16 for no change; Metropolitan Airport Commission 1 for no change; in Savage, 239 for a net change of 130 and in Shakopee 199 for a net change of 111.

Ms. Young said in August and September, before the close of the comment period, staff met with the cities of Eden Prairie and Bloomington. In October, draft comments were released. Staff met again with the city of Bloomington and with the Scott WMO and today we are holding the public hearing. In the future, between now and April 2018 staff will be working on finalizing the draft and preparing the Statement of Need and Reasonableness (SONAR) document. The SONAR is not something that is normally completed as part of the Plan amendment process, but is something the TAC and municipalities requested. The Plan on its own presents the issues and the remedies for the standards that are proposed.

During this time the Plan will be updated to address the comments and make the modifications that are approved. The Plan will be released in April for the 90-day draft final plan process.

President Shirk asked the Board if there were any questions. She then noted there are 7 individuals who have requested to speak. The Board took a 5-minute recess to allow for others to sign up to speak.

President Shirk opened the public hearing. She noted that officials from the cities of Bloomington and Eden Prairie wished to speak and since they might answer some questions others may have she planned to allow them to speak first.

[The actual comments from those giving testimony are contained in a separate document that will become part of the comments for the Plan Amendment and are attached to the minutes as Appendix A]

The following people addressed the Board:

- Mayor Gene Winstead, City of Bloomington
- Glen Markegard, Planning Manager, City of Bloomington
- Dave Modrow, Water Resource Engineer, City of Eden Prairie
- Nora Beall, 2915 Overlook Drive, Bloomington
- Todd Johnson, 10020 Dell Road, Eden Prairie
- Greg Porter, 11601 Palmer Road, Bloomington
- Ron Nelson, 163 Spring Valley Drive, Bloomington
- Tom Roberts, 11015 Bell Oaks Estate Road, Eden Prairie
- Duane Saunders, 9901 Riverview Road, Eden Prairie
- Micah Heckman, Graduate Engineer, City of Shakopee
- Daniel Miller, 1875 Meadow View Road, Bloomington
- David Shervy, 1901 Meadow View Road, Bloomington
- Adam Buenz, 10100 Eden Prairie Road, Eden Prairie
- Tom Moehn, 5025 Overlook Circle, Bloomington
- Chris Penwell, Siegel Brill, Suite 1300, 100 Washington Avenue South, Minneapolis
- Laura Bluml, 10540 West Riverview Drive, Eden Prairie
- Roger Peters, 3061 Overlook Drive, Bloomington
- Steve Peterson, 11036 Glen Wilding Way, Bloomington
- Doug Bartyzal, 11012 Glen Wilding Lane, Bloomington

President Shirk asked if anyone else wanted to speak. Seeing and hearing no one, President Shirk suspended the public hearing for the evening.

Manager Hartmann made a motion to recess the public hearing to a date, time and location to be determined and re-noticed pursuant to statute; that staff coordinate with local communities to provide additional informational meetings for residents at which district staff

can explain the proposed amendments and answer questions; also that staff at a minimum coordinate local informational meetings in the cities of Bloomington and Eden Prairie, and that staff work with the local communities to provide notice of the informational meetings by local publication, community bulletin board postings website postings and email if possible, in addition to that I would like that staff hold another meeting with the TAC (Technical Advisory Committee).

President Shirk assured the audience that the managers would carefully consider the testimony before the plan amendment is acted upon.

Administrator Loomis said staff will work with the cities to arrange for the informational meetings and put together a plan.

President Shirk asked about time constraints. Administrator Loomis said there are only three managers and the constraint is to get information pulled together in time for the January meeting, before Manager Raby leaves for the winter.

Attorney Kolb informed the Managers that LMRWD staff has met with the Board of Water & Soil Resources Board Conservationist and the Metro District Manager, who encouraged the District to take as much time as necessary to get the proper input and the proper information out into the public's hands before moving forward. So really, that constraint is only the District's: it is not imposed by on the District by rule, statute or otherwise.

The motion was seconded by President Shirk. The motion carried unanimously.

Manager Hartmann pointed out that there are two open positions on the board; one for Carver County and one for Hennepin County. He encouraged members of the audience to consider applying for one of the vacant positions. President Shirk said the audience could also consider applying to be on the Citizen Advisory Committee.

President Shirk called for a short recess before proceeding with the remainder of the meeting.

President Shirk proposed addressing only the action items on the agenda and tabling the other items to next month's meeting.

6. NEW BUSINESS/PRESENTATIONS

A. Receive and file Letter and Resolution from the city Eden Prairie

Administrator Loomis said the District received the letter and resolution. Staff is requesting that the Managers authorize staff to prepare a response and mail the response to the cities.

Manager Hartmann made a motion to receive, file and respond. The motion was seconded by President Shirk. The motion carried unanimously.

7. OLD BUSINESS

A. MAWD

Administrator Loomis explained that Manager Raby is registered for the MAWD Annual Conference and therefore it would not be out of order to designate him as the delegate for the LMRWD. The Board might also wish to give him the proxy of the second delegate.

President Shirk made a motion to appoint Manager Raby as delegate and give him the proxy of the second delegate. The motion was seconded by Manager Hartmann. The motion carried unanimously.

B. MN River Clean Up Event

No new information since last update

C. Dredge Management

i. Review Process for funding of maintenance of Navigation Channel

Administrator Loomis said there was no action. She asked when the board would like Clay Dodd to walk the board through the report. President Shirk said she would prefer to have Manager Raby present. So coordinate with Mr. Dodd to come to a meeting when all three Managers will be in attendance.

ii. Vernon Avenue Dredge Material Management site

Administrator Loomis informed the Managers that BWSR approved the work plan submitted by the LMRWD. She asked the Managers to authorize staff to begin work on the plan.

Manager Hartmann made a motion to have staff initiate the work plan. The motion was seconded by President Shirk. The motion carried unanimously.

iii. Private Dredge Material Placement

The meeting was adjourned at this point in the agenda and the remaining items were tabled until the November 2017 meeting.

D. 2018 Legislative Action

E. Website Redesign

No new information since last update

F. Education and Outreach Plan

i. Friends of the MN River Valley/LMRWD cooperative project

ii. Citizen Advisory Committee

G. LMRWD Projects

i. Riley Creek Cooperative Project/Hennepin County Flying Cloud Drive/CSAH 61 reconstruction project

ii. Lake Coring Project with Freshwater Society

iii. Seminary Fen ravine stabilization project

iv. Analysis of Dakota County Groundwater Project

v. East Chaska Creek/ CSAH 61 & TH 41 Transportation Improvement Project

vi. Savage Fen Ravine Project

H. Project Reviews

i. City of Burnsville - Hertz Corporation

ii. City of Burnsville - Caliber, Inc.

iii. **City of Burnsville, Dakota County - Quarry dewatering**

iv. **Xcel Energy Black Dog Plant**

I. **Dean Lake - no change since last update**

No new information since last update

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

No new information since last update

7. COMMUNICATIONS

A. **Administrator Report:** No report

B. **President:** No report

C. **Managers:** No report.

D. **Committees:** No report

E. **Legal Counsel:** No report

F. **Engineer:** No report

8. ADJOURN

The meeting was adjourned at 10:02 PM.

Dave Raby, Secretary

Attest:

Linda Loomis, Administrator