



Minutes of Regular Meeting

Board of Managers

Wednesday, December 17, 2014

City Council Chambers, Chaska City Hall, 7:00 p.m.

Approved January 21, 2015

1. CALL TO ORDER AND ROLL CALL

On Wednesday, December 17, 2014, at 7:00 PM in the City Council Chambers of the Chaska City Hall, Chaska, Minnesota, President Kremer 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: Kent Francis, Len Kremer, and Yvonne Shirk. Linda Loomis, LMRWD Administrator, and Curt Hennes, PLSLWD were also present.

2. APPROVAL OF THE AGENDA

President Kremer introduced this item.

Manager Francis made a motion to approve the agenda of December 17, 2014. The motion was seconded by Manager Shirk. The motion carried unanimously.

3. CITIZEN FORUM

Curt Hennes, Board Chair of the Prior Lake/Spring Lake Watershed District (PLSLWD), reported on a request he made at the MAWD annual meeting to move the 2015 Annual meeting closer to the Metropolitan area, to a venue such as Mystic Lake. He pointed out to that 1/3 of the watershed districts in the state are in the greater metropolitan area.

He said the PLSLWD budget has been set. Mr. Hennes said they have been able to keep the levy stable for the last 7 years, because of excess money received when bonds were issued to pay for the Prior Lake Outlet Channel, that money has all been used and now the levy will be increased about 20% for 2015. He noted Scott County will be requesting about \$20 million in funds for the entire county to repair damage from the 2014 flooding. Mr. Hennes reported the Prior Lake Outlet Channel alone, incurred over a million dollars of damage and there are 40 culverts and 1/3 are washed out or have to be built up again. One of the worst is on County Road 16 where the elevation goes down.

Mr. Hennes said he received a call from a company who has been working on Christmas Lake testing a new protocol for dealing with zebra mussels. and so far, great success has been seen in reducing the number of mussels in the lakes that have been treated. He reported there seems to be hope for dealing with this invasive species.

4. CONSENT AGENDA

A. Approval of Minutes November 19, 2014 Regular Meeting

- B. Approval of Financial Report**
- C. Approval of Payment of Invoices**
- D. Authorize 2015 Addendum to Recording Secretary Service Agreement with Time Saver Off Site Secretarial Service**

A motion was made by Manager Shirk and seconded by Manager Francis to approve the Consent Agenda. VOTE: Ayes 3; Nays 0, Motion carried.

5. NEW BUSINESS

A. Out of State Travel Policy

Administrator Loomis said last year when the audit was conducted the Auditor asked about an out of state travel policy, which is required by state law. She said she checked around and found a model policy which was used to prepare a draft policy that is before the Managers now. She requested the Managers revise the draft to reflect the policy they would like to adopt and she will bring the revised policy back to the next meeting. Manager Shirk said the draft should include manager or administrator. Administrator Loomis said some language in the model used included employees. Manager Shirk suggested deleting all employee references. Manager Kremer said they don't have much out of state travel. Administrator Loomis said they could adopt a policy that says they don't have out of state travel. Manager Shirk said she would rather have a policy in place, Manager Kremer agreed. The Managers were satisfied with the basic policy and suggested the additional items listed be determined on a case by case basis. Administrator Loomis said she will revise the draft with the direction from the Manager and will bring the revised policy to the next meeting.

6. OLD BUSINESS

A. Bluff Creek Cooperative Project

Claire Bleser, the Administrator for the Riley Purgatory Bluff Creek Watershed District (RPBCWD), was planning to attend to present the plans for the cooperative project and to answer questions posed by the Managers. Claire was not present and Administrator Loomis will contact her for additional information and provide the Managers with information about the Public Hearing for the project scheduled for January 6th, 2015. The Hearing will be held at the RPBCWD offices.

B. Black Dog Regional Trail in Burnsville

Terry Schultz and Julie Dorshak, from the city of Burnsville were present. Ms Dorshak reviewed the information that was shared a year ago and gave an update on the project. She said the Black Dog Regional Trail is a \$2.7 million dollar project. It is a 3.5 mile trail connecting I-35W with Cedar Avenue and become part of the Dakota County trail system. She listed partners in the trail project: Dakota County US Fish and Wildlife Service, Xcel Energy and the LMRWD. She showed a graphic of the trailhead and amenities that will become part of the project. Ms. Dorshak said there will be a kiosk with LMRWD information.

Ms. Dorshak spoke about the trail easement request and requested the LMRWD grant authority to cross a portion of the easement. She addressed the request by the LMRWD that the city acknowledges that the trail may need to be closed periodically for management of dredge material and that the trail be constructed to a standard to allow heavy equipment to cross the trail. She noted the City has also supported LMRWD's acquisition of additional dredge sites.

Manager Shirk asked about plans by Xcel Energy to vacate the cooling ponds. Ms. Dorshak said Xcel Energy is moving ahead to complete that task, bids will be out soon and will start that part of the work this summer. Manager Shirk asked about plans for the property. Mr. Schultz said the Xcel is ceasing coal operations to become gas powered, the old coal storage areas will be cleaned up and that has been approved by the Minnesota Pollution Agency. He said they will be working together to coordinate the plans with the clean-up and trail. Mr. Schultz reported that the trail project has been broken up into two years to coordinate with Xcel's plans to remediate the site. Manager Shirk asked what use is proposed for the area now occupied by the cooling ponds. Mr. Schultz said the area will be replanted and become a natural area. Manager Shirk asked about the area could be use to place dredge material. Administrator Loomis said filling the ponds with dredge material is a possibility that will be considered. Mr. Schultz stated the ceasing of the coal operations generator will be in 2015 and the Public Utilities Commission recently approved the conversion of gas powered electricity generation at the plant and the filling of the ponds will be completed by 2017.

Managers discussed the location of sites under investigation for dredge placement and how the plans for trails would impact use of properties for dredge material placement. Administrator Loomis clarified where the DNR boat launch is under Cedar Avenue. Manager Kremer said there was concern with the trail and asked what the plan is for east and west in the future. Mr. Schultz explained the trail will ultimately go to the east to Eagan and hook up to Mendota Heights and to the Mississippi. Manager Kremer said they asked for comments on the site near the airport on the north side of the river and as an alternative, they have the south side of the DNR property. Mr. Schultz noted this segment of the trail will end at the DNR parking area. Administrator Loomis said the parking is on the east side of Cedar. Mr. Schultz said that will have no impact on this project. Manager Kremer said they asked the Corps if an additional site is needed on the east side of 35W so there may need to be future coordination. Mr. Schultz said they could work around whatever is planned for that area. President Kremer asked about the west side. Mr. Schultz said the trail continues on to Scott County.

A motion was made by Manager Shirk and seconded by Manager Francis to approve Resolution 14-21 subject to final review and approval by counsel. VOTE: Ayes 3; Nays 0, Motion carried.

Manager Shirk questioned what is the big white structure that looks like a barn on the south side of Black Dog Lake. Mr. Schultz said he is not familiar with it but will find out.

C. Economic Impacts of 2014 Spring Floods on River Transportation (verbal update)

Administrator Loomis has been conducting research in order to put something together for the Managers to react to. She does not have anything ready for the Managers to review. She says it is difficult to put together any kind of informational piece to use to Lobby until we have definite issues we want from the legislature. What is the end result the LMRWD would like.

She reported that she spoke with Ron Harnack to get ideas regarding how the LMRWD should approach the Legislature in the 2015 session. Mr. Harnack indicated that there is a general lack of awareness by other governmental units in the District of its concerns. The LMRWD needs to determine what the end result should be.

President Kremer said a Legislative Water Commission (LWC) was formed to look at ground water problems that have occurred over the past few years, such as White Bear Lake and some

of the rural ground water conflicts. He reported that he attended the December 11th meeting of the LWC, where presentations were made by several organizations about issues affecting water today. One speaker, Steve Morse, was from the Minnesota Environmental Partnership, who had a hand out which President Kremer distributed to other Managers. President Kremer felt this presentation addressed the issues the LMRWD is concerned with, such as suspended solids, dissolved oxygen and phosphorus. President Kremer said if we are going to ask the Counties to help us at the legislature, we have to somehow communicate the problems to them. He stated he doesn't think it's too late to try and communicate with legislators. President Kremer said the LMRWD should begin meeting with Legislators and should start with the Chair of the LWC.

Manager Francis asked for clarification of the exact problem with dredge material and water qualities. President Kremer explained the problem is that current agricultural practices have made run off on agricultural land similar in nature to urban runoff. President Kremer said beginning in January the LMRWD needs to begin communicating with the counties through Paul Nelson and Randy Anhorn and LMRWD legislators

Administrator Loomis explained the LMRWD used a briefing when meeting with Legislators last year. President Kremer said the LMRWD needs to develop the communication piece to use when speaking on behalf of the District. He said we need Ron Harnack's and Norm Senjem's help. He commented on needing \$10,000 to \$15,000 to hire someone to draft the communication. Administrator Loomis said there is \$20,000 in the budget for lobbying.

A motion was made by Manager Shirk and seconded by Manager Francis to authorize up to \$15,000 in expenditures to create an information piece and initiate lobbying efforts consistent with the prior discussions. VOTE: Ayes 3; Nays 0, Motion carried.

President Kremer suggested getting an outline as soon as possible. And asked the Administrator to call Ron Harnack to see if the LMRWD can get on an agenda of the LWC. He also requested a copy of the USACE letter to the MPCA regarding the SRV's stating that the proposed SRV levels would curtail its dredging operations. President Kremer said we need to get that information in front of the legislators too.

D. South Metro Mississippi River TSS TMDL Contested Case Hearing (verbal update)

Administrator Loomis reported on her conversation with Chris Zadak of the MPCA who indicated they will deny the LMRWD's request for a contested case hearing. She said Mr. Zadak indicated all requests for contested case hearings are being denied. Administrator Loomis stated Norm Senjem said the LMRWD's request for a contested case hearing is fact based and not a disagreement with policy and that is not grounds for denial of the request. Mr. Zadak said the MPCA cannot do more enforcement without changes to state law. Administrator Loomis said she tried to follow up with Mr. Zadak what he might be referring to. President Kremer directed the Administrator to continue to follow up with Mr. Zadak, perhaps in writing and copying John Stine.

E. Seminary Fen/Chaska Ravine

Administrator Loomis said the City of Chaska approved the agreement Monday night. She has requested a timeline from the city of Chaska for bidding the project, but has not been provided with one yet. She noted she is working on requesting the extension to the grant agreement with BWSR, but she is hopeful we won't need one now that the agreement is signed.

F. Plan Amendment

Administrator Loomis said the plan amendment went out today to BWSR and the required agencies. She noted the names of official contacts were provided.

G. Dredge Management

i. USACE Right of Entry Agreement

Administrator Loomis said she has spoken with Steven Tapp about setting up a meeting with the USACE. She is hopeful we can get some answers by the end of February.

ii. Rachel Contracting

Administrator Loomis said Rachel Contracting has the agreement to sign. She reported she asked Rachel Contracting how much they were planning to contribute to the repair of Vernon Avenue after hauling is finished. Once a limit was put into the contract Rachel signed. Rachel is willing to contribute \$7,500 for the cost to repair Vernon Avenue.

iii. LS Marine Contract

Administrator Loomis reported that she has received the totals of material placed on RMP 14.2 from LS Marine. Totals are: Cargill East, 9,343 CY; Cargill West, 11,437 CY; CHS, 5,377 CY; and Riverland, 3,008 CY. She will prepare invoices for each and check the letters of credit to make sure the amounts of the Letters of Credit are sufficient. President Kremer said that once we get the comment letter the USACE sent to the MPCA regarding the impact of the proposed Soil Reference Values on dredging we should provide this to the companies and area legislators. He stated he hoped the businesses were following this issue.

iv. Secondary Dredge Site Update

Nothing to report. Administrator Loomis reported this item will be discussed when the LMRWD meets with the USACE to work out the Right of Entry agreement.

H. MPCA Soil Reference Values

Administrator Loomis said this was talked about earlier tonight

7. COMMUNICATIONS

- A. **Administrator's Report** - written report provided to the Managers (copy attached). She mentioned some projects that she received notice of after the agenda packet was distributed. MNDOT will begin a project on TH 41 south of the Minnesota River, Xcel has applied for a public waters permit to reconstruct a wharf, and she has been in contact with Nathan Wallerstedt of the USACE about whether or not the Eden Prairie river bank stabilization project would qualify for Corps funding.
- B. **President** - President Kremer reported on discussions he had with Jim Haertel of BWSR at the MAWD meeting. He said BWSR is concerned about the number of managers appointed to the board. Mr. Haertel indicated he has been calling the counties to get someone appointed. BWSR was concerned with whether or not two managers constitute a quorum. Manager Francis talked about possible candidates to replace him. He has been speaking with several of his neighbors one of which is on the school board, another was on the LMRWD CAC. There was discussion that perhaps Leo Forner could fill in temporarily.

Administrator Loomis noted John Kolb will be coming to the meeting in January and wanted to know if there is anything beside the funding of the navigation channel the Managers would like to hear from him. President Kremer would like him to comment on whether or not the LMRWD has actions that can be taken with the MPCA once the requested case hearing have been

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denied. Managers directed the Administrator to send Mr. Kolb the comment letter and any subsequent letters.

President Kremer said the Board should be planning to conduct a one year review of Administrator and requested copies of the Administration Agreement and scope of work.

President Kremer also reported on discussion he had at the MAWD conference with John Jaschke the Executive Director of BWSR. President Kremer was advocating for BWSR to take responsibility for going to the legislature about the need for a basin commission Mr. Jaschke thought the 'One Watershed One Plan' approach should be given more time to see how well it works. President Kremer pointed out that one of the major issues is the lack of funding mechanism and that water quality will not be improved until money is committed to the Minnesota River Valley. Mr. Jaschke said he would bring the issue up with the Legislative Water Commission.

- C. **Commissioners** - No report
- D. **Committees** - No report
- E. **Legal Counsel** - No report
- F. **Engineer** – No report

8. ADJOURN

It was moved and seconded to adjourn at 8:23 PM. Motion carried unanimously.

Len Kremer, President

Attest:

Linda Loomis, Administrator