



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, April 21, 2021

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

Approved \_\_\_\_\_, 2021

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

On Wednesday, April 21, 2021, at 7:00 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.

The first item on the agenda was the Oath of Office for Manager Mraz. Manager Mraz was appointed to the LMRWD Board of Manager by the Dakota County Board of Commissioners on April 5, 2021. Manager Mraz acknowledged that she had executed the Oath of Office and the Manager's Bond.

Attorney Kolb advised that by executing the Oath of Office Manager Mraz is a fully fledged and qualified member of the Board of Managers.

The Board congratulated and welcomed Manager Mraz.

President Hartmann asked for roll call to be taken. The following Managers were present: President Jesse Hartmann, Manager Patricia Mraz, Manager Dave Raby, and Manager Lauren Salvato. 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; Craig Diederichs and Greg Genz, LMRWD Citizen Advisory Committee; Steve Pany, Manager, Prior Lake Spring Lake Watershed District; Casey Wollschlager, Summergate Companies; Clark Wicklund, Alliant Engineering, Inc.; and Lisa Frenette, Frenette Legislative Advisors, legislative liaison for the LMRWD.

#### 2. APPROVAL OF THE AGENDA

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

Manager Raby said it appeared the Financial Report was for February not March. He noted that some invoices were for January. Administrator Loomis explained that the report was for March. Invoices appear in particular months depending on when invoices are received and when they are sent to the financial service provider for payment. She said that sometimes there is a lag that can be confusing.

**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: Hartmann, Mraz, Raby and Salvato; the following voted against: None**

### **3. CITIZEN FORUM**

Administrator Loomis reported that she had not received communication from anyone that wished to address the Board.

### **4. CONSENT AGENDA**

President Hartmann introduced the item.

Manager Salvato asked about the amount remaining on the East Chaska Creek Project after this payment. It was noted that the amount remaining can be found on the Pay App that was included in the packet.

#### **A. Approve Minutes February 17, 2021 and March 17, 2021 Regular Meetings**

#### **B. Receive and file March 2021 Financial reports**

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

- i. Liberty Mutual Insurance Company - 2021 Surety Bond
- ii. Rinke Noonan Attorneys at Law - January 2021 Legal Services
- iii. US Bank Equipment Finance - Copier lease payment
- iv. Daniel Hron - March 2021 office rent
- v. Metro Sales - Payment on copier service agreement
- vi. Dakota County Soil & Water Conservation District - Q2, Q3 & Q4 2020 Dakota County monitoring services
- vii. Young Environmental Consulting Group - January 2021 technical and Education & Outreach services
- viii. TimeSaver Off Site Secretarial, Inc. - preparation of January 2021 meeting minutes
- ix. Carver County Finance Department - Q1 2021 financial services

#### **D. Authorize partial payment to Blackstone for East Chaska Creek**

#### **E. Authorize payment to RPBCWD for Hennepin County Chloride Project**

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

### **5. NEW BUSINESS**

#### **A. Lower Minnesota River One Watershed One Plan**

Administrator Loomis reported that she has been attending the planning committee meetings for the One Watershed One Plan for Planning Area 56. She said the grant application for funding of the planning process will be submitted to the Board of Water & Soil Resources (BWSR) in June. She said that one of the items required for the application is to identify parties that will be included on the various committees required. Manager Raby asked if it would be appropriate for the Administrator to be appointed, since she has already been following the process.

Administrator Loomis said that Attorney Kolb answer that question. Attorney Kolb replied that policy committee members are usually elected or appointed officials. The Board thought it is important for the LMRWD to be part of the process. Manager Raby volunteered to be on the policy committee. Manager Salvato noted that she doesn't have time to take on something more. Since this is was Manager Mraz's first meeting she didn't feel comfortable volunteering at this time. Administrator Loomis said all meetings are open to the public so all Managers are able to attend the meetings whether or not they are members of the committee.

Attorney Kolb said that Manager Mraz might be willing to be the alternate, as it is the responsibilities of the alternate would not be direct and immediate. That way she could attend and be compensated according to the Board compensation policies and it is a good opportunity to learn about watershed planning processes. It would be a great benefit if she were so willing. Manager Mraz said she might be willing to be the alternate, but just can't commit right now to attending additional meetings as she is still working full time. President Hartmann he also has an issue of finding time.

**President Hartmann made a motion to appoint Manager Raby as the LMRWD representative to the Lower Minnesota One Watershed One Plan policy committee and to name an alternate at a later date. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, and Salvato; the following voted against: None. Manager Raby abstained**

Manager Mraz asked if it would be possible to appoint an alternate in a month or two. Administrator Loomis said that the Board can appoint someone at any time. She reported that the planning grant is due in June and she was not sure how long it takes for a grant to be approved. The process will not move forward until a grant is received, so it could take a while for any meetings to be scheduled.

**B. Authorize 2021 Cost Share project for 11451 Landing Road, Eden Prairie**

Administrator Loomis reported that this is an application for the District's Cost Share Program by a homeowner in Eden Prairie that plans to remove invasive species from a steep slope on her property and to address erosion that has been created by roof drains from the home.

Manager Raby said there were some inconsistencies in the application. The Board discussed the inconsistencies. Administrator Loomis noted the applicant has sent a corrected application and that she [Administrator Loomis] has spoken with the contractor. Manager Salvato asked about a previous application to remove buckthorn that the Board tabled. Administrator Loomis noted the District is still working with the other applicant and that some of the concern was that that property was within a home owners association. Manager Raby believed the previous application was only for removal of the buckthorn there were no plans for replacement with species to help mitigate the flow of water. Manager Salvato said she is okay with approving the application, but just wanted to note the application that was received last year.

**Manager Raby made a motion to approve the 2021 Cost Share application for 11452 Landing Road. The motion was seconded by Manager Mraz. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

**C. Hennepin County Mailing**

Administrator Loomis said that the Board directed that a mailing be sent to LMRWD residents living in Hennepin County. She was able to get a list of addresses from Hennepin County and there are more than 7500 individual addresses. She wanted to bring the costs back to the Board for approval, since this mailing will be more costly than the Dakota County mailing.

Manager Raby said he didn't understand why the sizes of the postcard were different in the two proposals. Administrator Loomis said the difference in sizes was just included as options and the one from MPX was based on the Dakota County mailing. Manager Raby said that he supports moving forward with the mailing since the District has money for it in the budget. Manager Salvato agreed. Manager Mraz thought it was good advertising for the District and made people aware of the existence of the District.

**Manager Raby made a motion to approve the mailing to Hennepin County residents soliciting interest in becoming a LMRWD Manager with MPX Group. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

President Hartmann said this was not discussed earlier and wondered what office Manager Mraz would hold. He asked when the Board holds elections. Administrator Loomis said elections are held according to the bylaws in September. Manager Salvato noted the website still shows Manager Raby as the Secretary/Treasurer. Manager Raby said the Board can appoint an officer to fill a vacancy. Attorney Kolb that President Hartmann can make an appointment. President Hartmann appointed Manager Mraz as Vice President.

## **6. OLD BUSINESS**

### **A. Authorize Cost Share project 11300 Goodrich Road, Bloomington**

Administrator Loomis reported that she had been in touch with the applicant. She inspected the property and discussed the project with the applicant. The applicant did attend a class offered by the Dakota SWCD and was planning to attend the next level of classes that would help her design the project. Administrator Loomis said she had not been in touch with the applicant since the site visit. She had reached out to applicant, but has not received a response.

### **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 the cooperative agreement was revised and approved by the City at its April 5th meeting. Administrator Loomis said she had planned to include the agreement in the packet, but appears to not have done so. Manager Raby agreed that it was not in the packet. Manager Raby said he wanted to understand the revisions to the agreement and were they the ones the Board had asked for. Administrator Loomis said she will ask Attorney Kolb to review the agreement before it is executed on our end.

### **D. Remote meeting participation**

No new information to report since last update.

### **E. Dredge Management**

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

No new information to report since last update.

#### **ii. Private Dredge Material Placement**

No new information to report since last update.

### **F. Watershed Management Plan**

No new information to report since last update.

### **G. 2020 Legislative Action**

Administrator Loomis said she had asked Lisa Frenette to follow up on bills regarding the Freeway Landfill because the District has been notified that work will begin on this project. Ms. Frenette joined the meeting and proceeded to update the Board on what has been happening at the Legislature. Both bills the LMRWD introduced were included in the omnibus Environmental bill.

With regard to the Freeway Landfill is not specifically called out but is addressed in the legislation under qualified landfills. It is in the house bill, but not in the Senate bill. The legislation tweaks the language regarding eminent domain. She doesn't think the Senate will

make any moves on this. She said everyone she has spoken with is perplexed that the State is not using any of its authority at the moment to get onto the property and begin doing inspections. The statute was altered three years ago so that the State could get onto the property.

Ms. Frenette then explained the water storage bills under consideration. She is concerned with the wording of the bill; there is no definition of water storage and there is not enough funding. Funding was originally \$3 million but has been reduced to around \$500,000. She says it is set up to fail and it creates another level of bureaucracy. She said that no one has spoken with the watershed districts about this. She noted that the LMRWD consulted Mr. Ron Harnack, the legislative liaison for the LMRWD before Ms. Frenette, on this and he agreed that what is being considered is problematic. Manager Salvato asked if MAWD was involved. Ms. Frenette said that MAWD was not involved in the drafting of the legislation. She said there is money in both omnibus bills (House and Senate) and will likely go through. She noted it was originally specific to the Minnesota River, but was broadened during the session. She thought the funding should have been more like \$25 million.

Manager Raby said the Board should finalize the agreement with Ms. Frenette.

(Ms. Frenette left the meeting)

#### H. Education and Outreach Plan

##### i. Citizen Advisory Committee (CAC) Bylaws

Administrator Loomis said the CAC bylaws must be approved by the Board.

Manager Salvato asked if CAC bylaws from other district were looked at when these were drafted. Della Young said that they were. The LMRWD looked at other watershed districts bylaws and then prepared its own, which were reviewed by the CAC.

Manager Raby noted he had some concerns; membership said five members were to be residents of the district and there are only four that are residents of the LMRWD. He also noted that the conflict of interest language; should address conflicts other than financial. Ms. Young said that we can remove the financial conflict so that other conflicts are covered. Manager Raby noted that the list of Managers should be updated. President Hartmann noted the list of officers should also be updated.

**President Hartmann made a motion to approve the CAC bylaws subject to the edits discussed. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

##### ii. Schools and Nongovernmental Organizations Partnership Assessment

Manager Raby said he was surprised to see Jefferson is within the LMRWD. He thought perhaps Kennedy would be, but not Jefferson. Administrator Loomis said Jefferson is and Kennedy is not. No action was required on this item.

##### iii. LMRWD Signage Review and Recommendations

Manager Raby thinks the proposal is good. Manager Salvato is happy to see this proposal.

**Manager Raby made a motion to approve staff moving forward on the signage plan. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

**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**

No new information to report since last update.

**J. Project/Plan Reviews**

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

**i. Burnsville Industrial Phase IV**

Administrator Loomis explained this is a commercial/industrial development in the City of Burnsville. The applicant is relying on the capacity of a city owned stormwater pond for stormwater management. The LMRWD has not been able to determine that the pond has the capacity to receive stormwater from this development. The applicant was not aware that a permit from the LMRWD was needed and is under some pressure to begin construction and would like to begin construction while the LMRWD completes its review and investigation. Katy Thompson provided the board with details of the project and the LMRWD review.

The LMRWD worked with its legal counsel for recommendations as to how the District can allow construction to proceed. That is the reason financial surety is being recommended. Manager Raby asked if financial surety impacts other application on the agenda. Attorney Kolb said that is correct. Manager Salvato asked if the Board should adopt a policy for situations such as this, or if this is a temporary situation. Attorney Kolb said District already has a policy for this in its rules.

**Manager Raby made a motion to conditionally approve LMRWD permit No. 2021-009, Burnsville Industrial Phase IV subject to receipt of financial assurance from the applicant. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

**ii. Canterbury Park parking lot**

This project is for the reconstruction and rehabilitation of parking lots at Canterbury Park. Ms. Thompson explained the work that is being permitted.

**Manager Raby made a motion approve LMRWD permit No. 2021-012, Canterbury Park Parking Lot 0 Phase 2. The motion was seconded by Manager Mraz. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

**iii. City of Shakopee 2021 Street and Utility Reconstruction**

The applicant for this project is the City of Shakopee. Ms. Thompson provided details of the project and the LMRWD review to the Board. She noted that this project will provide stormwater treatment to an area of the city that does not currently receive treatment. It is right next to a project that the District previously issued a permit for; Shakopee Flats.

**President Hartmann made a motion conditionally approve LMRWD permit No. 2021-011, City of Shakopee 2021 Street and Utility Reconstruction upon receipt of the NPDES permit and contact information for the person responsible for compliance with the**

**District's inspection and maintenance requirements. The motion was seconded by Manager Raby.**

Manager Salvato questioned whether or not a steep slope will be impacted by the project and was there a site visit to confirm. Ms. Thompson said she was concerned with the proximity of the project to the steep slope and consulted the City to compare maps. The construction limit is just outside the District's steep slope overlay district. She said the permit will stipulate that no work is authorized within the steep slope overlay zone.

**Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

**iv. Summerland Place**

Administrator Loomis said this is a residential development in the City of Shakopee. She noted the applicant would like to start construction before the District's review is complete. She asked Ms. Thompson to provide the Board with more information. Ms. Thompson explained that this applicant has asked to begin construction before the Board's May meeting. This is a 117 acre development of single family residential homes. The applicant was not aware they needed to get a LMRWD permit. Attorney Kolb asked if the applicant will need to get an NPDES Permit. Ms. Thompson confirmed that is correct. Attorney Kolb point out that the NPDES permit requirement affords the District with a certain level of security the LMRWD rules will be followed should the Board decide to allow construction to move forward before the LMRWD review is complete.

**Manager Raby made a motion for conditional approval subject to receipt of financial assurance in accordance with the District's rules. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

Administrator Loomis said that she and Della Young have talked about the need for an additional monthly meeting. Because Burnsville and Shakopee are seeing a lot of development and neither city has an LGU municipal permit issued by the LMRWD. Both cities are working toward getting a permit, but that is not likely to happen until later this year. In the meantime, LMRWD staff is seeing a lot of permit applications and believes an additional meeting solely for the purpose of the approving permits would help with the work flow.

Manager Salvato asked if this would reduce the time spent on the third Wednesday. Administrator Loomis said it should, but she cannot guarantee that it would. Manager Raby thinks it would have to reduce the meetings on the third Wednesday. Manager Mraz asked how long the need for these meetings would exist and if it was necessary for the full board to attend. Administrator Loomis felt the need for the meetings is temporary. She said it is better to say the Board has decided to hold regular meetings rather than call for special meetings when needed, because of the meeting notice rules in Minnesota Statute.

Manager Mraz asked if the Board could adopt a schedule of Managers to attend. Manager Raby asked if a motion was needed. Attorney Kolb said it was.

**Manager Raby made a motion that the LMRWD Board of Managers meet on the first Wednesday of the month from May until September at 7:00pm for the purpose of considering permits application.**

Manager Mraz said she might have a problem with making the second meetings. President Hartmann asked about the format of the additional meeting; is it the same as regular meeting? Attorney Kolb said it would follow the same format. He also asked if the meeting would be open to discussion of other topics. Attorney Kolb said the motion, which has not been seconded, is specifically for permit consideration and for no other reason. Managers discussed who would be available for a meeting May 5th. Attorney Kolb pointed out that if there is no business to be considered the meeting could be cancelled.

**Manager Salvato seconded the motion. Upon a vote being taken the following voted in favor of the motion: Hartmann, Mraz, Raby and Salvato; the following voted against: None.**

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

**7. COMMUNICATIONS**

- A. Administrator Report:** The Administrator had nothing more to report than what was in the written report.
- B. Managers:** Manager Raby wanted to thank Manager Mraz for her willingness to join the Board.
- C. Committees:** No report
- D. Legal Counsel:** No report
- E. Engineer:** No report

**8. ADJOURN**

**At 8:31 pm, President Hartmann made a motion to adjourn the meeting. Manager Salvato seconded the motion. Upon a vote being taken the following voted in favor of the motion: Hartmann, Raby and Salvato the following voted against: None.**

**The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, May 5, 2021 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