



Minutes of Regular Meeting

Board of Managers

Tuesday, June 17, 2014

Council Chambers, Chaska City Hall, 7:01 p.m.

Approved July 16, 2014

1. CALL TO ORDER AND ROLL CALL

On Tuesday, June 17, 2014, at 7:01 PM in the Council Chambers of the Chaska City Hall, Chaska, Minnesota, Manager 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: Len Kremer, and Yvonne Shirk. Also present was Linda Loomis, LMRWD Administrator. President Francis was absent.

2. APPROVAL OF THE AGENDA

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

3. CITIZEN FORUM

No Citizen Input

4. CONSENT AGENDA

- A. Approval of Minutes May 21, 2014 and June 4, 2014 Special Meeting
- B. Approval of Financial Report
- C. Approval of Payment of Invoices
- D. Resolution terminating PEIP
- E. Authorize agreement with Time Savers

Manager Kremer noted a change on the May 21, 2014 minutes under 6.B. line 6 and line 8 to read: 'hydraulic dredging.'

Manager Kremer said he had a question on the budget and asked if they have heard anything regarding the Long Meadow Outfall project from the City of Bloomington. Administrator Loomis said the project is not in the plan but will be included when the plan amendment is done.

A motion was made by Manager Kremer and seconded by Manager Shirk to approve the Consent Agenda with the corrections to the meeting minutes of May 21, 2014. VOTE: Ayes 2; Nays 0, Motion carried.

5. NEW BUSINESS

A. HLB Tautges Redpath report on 2013 Financial Audit

Mark Gibbs, HLB Tautges Redpath, said they completed the audit on April 25, 2014 in which a clean opinion was issued on the financial report. He pointed out couple things that are different this year. On page 15, under the 9' Channel fund, the costs are in excess of the tax levy coming in. Manager Kremer asked at what point the shortfall would become a problem. Mr. Gibbs responded that there is not a rule regarding fund shortfalls, auditors are required to point out the deficit. Manager Shirk clarified the sale of dredge material may be used to offset the shortfall.

Mr. Gibbs stated they don't have any major changes coming in the future for financial reporting for the LMRWD, however for cities and counties and schools are going to have to book their share of PERA as a liability. Manager Shirk asked if that has to be booked for a past employee. Mr. Gibb responded no. Manager Kremer asked how vacations, holidays and sick leave are determined in the past. Administrator Loomis said the audit reported vacation as an accrued liability. Sick leave was not reported in the audit, because it typically does not accrue from year to year.

Manager Shirk made a motion to accept and file the financial audit. The motion was seconded by Manager Kremer. The motion carried unanimously.

B. Waypoint Insurance Advisors

Managers discussed the issue of an opinion from an Environmental Attorney regarding the liability of the LMRWD with respect to reuse of dredge material. Manager Kremer noted he works with a lot of attorneys with environmental backgrounds and he will provide names to Attorney Malkerson.

John Hoffman, Insurance Advisor for the LMRWD for 20 plus years, said the insurance program has general liability and also includes workers compensation. Mr. Hoffman said one issue with the general liability is that it excludes pollution. Manager Shirk asked about the LMRWD getting coverage under Rachel Contracting's Insurance. Administrator Loomis explained that Rachel does carry insurance for environmental liability but the insurance underwriter for Rachel is not willing to extended coverage to the LMRWD as an additional insured. The Administrator also clarified Rachel Contracting is covered for any injury that might happen on the property and it is the same case for L&S Marine. She stated pollution is a separate issue. Administrator Loomis explained the dredge material needs to meet the Level One standard. She asked about buying coverage in any given year. Mr. Hoffman said the policy would be 12 months and claims would need to be made during the coverage period. Manager Kremer asked for a schedule of costs for pollution coverage plus what we currently have in the way of policy limits and premiums.

C. LMRWD Inclinometer Readings

Administrator Loomis commented on the chain of emails and said the reading is scheduled for this week, which will cost approximately \$1,000. She advised that inclinometer readings will be done on an annual basis.

D. 2015 LMRWD Budget

Administrator Loomis said she is looking for direction in how to do the budget. Manager Kremer said in the past they have had a special meeting to talk about items in the budget. He suggested having a draft budget for discussion at the July meeting. Manager Kremer said the budget needs to be done by August and noted it would be nice to have a response from the Corps on the second site. He commented on a past conversation with the same question, noting the response had been 'yes, a second site is needed.' Manager Shirk asked about the cost to transport dredge material from below I-35W to the Cargill site. Manager Kremer supported including cost of developing the second site in the budget regardless of whether or not the LMRWD has received a response from the Corps.

Direction was provided to staff to prepare a draft budget for discussion at the July regular meeting.

6. OLD BUSINESS

A. Announcement of Cost Share Incentive and Water Quality Restoration Program

Administrator Loomis reviewed that at the June 4 meeting, the Managers had approved four grants. Manager Shirk asked if the agreements were based on prior years. Administrator Loomis said no, the agreements are based on cooperative agreements from other watershed organizations.

Manager Kremer made a motion to approve the four cooperative agreements subject to approval of the attorney. The motion was seconded by Manager Shirk. The motion carried unanimously.

B. Seminary Fen/Chaska Ravine

Administrator Loomis said she has nothing to report. Manager Shirk asked about aerial photos. Manager Kremer said it is disturbing that they may end up with no project.

The Managers authorized Administrator Loomis to contact the Chaska City Manager and order historical aerial photographs of the fen.

C. Dredge Management

i. USACE Right of Entry Agreement

a. Environmental Liability

Administrator Loomis said there has not been anything done on this matter. Manager Kremer asked what has to be done. Administrator Loomis said they have to come to terms on the agreement. Manager Shirk noted Attorney Malkerson was not happy with the ROE agreement proposed. Manager Kremer suggested discussing the environmental liability issue soon.

The Managers requested a report from an Environmental Law Specialist and asked

staff to discuss an additional dredged management site in discussion about the Right of Entry Agreement.

ii. City of Savage

Administrator Loomis stated they are scheduled to be before the Planning Commission on Thursday night. She reported they have resolved the issue of empty trucks being able to use the frontage roads and also worked out an agreement on hauling during peak hours. The Managers questioned the likelihood of the City Council approving the amendment to the CUP. Administrator Loomis said she could not speculate on that, but if the planning commission approves the amendment and the city staff supports it, she doesn't see any reason the City Council would not approve it. Administrator Loomis said the Conditional Use Permit will be reviewed on an annual basis.

iii. Rachel Contracting

Administrator Loomis stated Rachel Contracting will be sending an agreement to Attorney Malkerson with the same terms and conditions as the letter of intent the Managers have seen previously. Administrator Loomis said they hope the agreement will be signed before July 7 so trucks can start moving on July 8.

iv. L & S Marine - approve contract for dredge site management

Administrator Loomis presented an agreement LS Marine offered. Manager Shirk inquired as to whether or not the Managers had previously authorized this agreement. Administrator Loomis said a signature has not been authorized. She noted the L S Marine agreement is for one year and they talked about a 60/40 split. Taylor Luke, of L S Marine said they don't have costs at this time other than time spent working out the agreements. Manager Kremer discussed modifications to the site to accommodate dredge material; dikes for containment of private material.

The Managers directed staff to work with L S Marine to put together a cost estimate for improvements that are needed at the RMP 14.2 site, apply for funds under the State's PDAP, and authorize the agreement with L S Marine subject to the Attorney's review of the agreement and negotiating the cost share of the Rachel Contracting offer.

v. Acceptance of Private Dredge Material

Administrator Loomis said no one has this kind of arrangement so she can't copy the documents. Manager Kremer asked what the schedule is for placement of the material. Administrator Loomis responded tomorrow. Mike Murphy, from Cargill, said they can put an agreement together. Administrator Loomis talked about fees. Taylor Luke, when asked, said the going market rate is \$1.00 a yard. Manager Kremer suggested the attorneys meet to draft the agreement.

Administrator Loomis noted the previous action was to accept the dredge material.

Manager Kremer made a motion to allow staff to set conditions and direct the legal and administrative staff to work with Cargill to develop an agreement to be used between the LMRWD and parties wishing to place dredge material on the site. The

motion includes that once the agreement is prepared and acceptable to the Attorney for the District, the President is authorized to sign. The motion was seconded by Manager Shirk. The motion carried unanimously.

vi. Secondary Dredge Site

Administrator Loomis presented a letter to the Managers requesting the USACE to reevaluate the need for an additional dredge site. The Administrator said she would like authorization to send the letter. Manager Shirk said she will email suggested changes. Manager Kremer said he doesn't think a letter will get the USACE's attention. He suggested setting up a meeting to express the importance of both issues before the August meeting so they can make a decision on future budgets.

The Managers authorized sending a letter to USACE with additional language added on scheduling a meeting to discuss the issues.

D. TAC Update

Administrator Loomis said the TAC will be meeting on Thursday at 2:00. The hope is to have a public hearing at the August meeting for the plan amendment. Administrator Loomis stated she would not recommend going with HDR.

E. BWSR Audit

Administrator Loomis said there are forms and goals on the progress of the plans. BWSR requested a list of Managers and a list of partners which the Administrator is preparing. Manager Kremer asked for a copy of the list.

7. COMMUNICATIONS

A. Administrator Report

Administrator Loomis reported that there will be a public hearing in August on the plan amendment. Administrator Loomis said she talked with Steve Christopher from BWSR about the Chaska/Seminary fen grant and he agreed they probably would not get a grant.

Administrator Loomis reported on the groundwater meeting at Carver County.

Administrator Loomis reported that she would like the Managers to authorize getting help to write the needed plan amendment. Manager Kremer suggested calling Brad Wozney and ask who has done a similar amendment that might be able to write the plan amendment..

Administrator Loomis provided an update on the RFP process and the interviews.

Administrator Loomis stated a 1999 Watershed Management plan is still on the website and clarified there is no reason to keep it on the website. She noted she has three pages of website changes.

LOWER MINNESOTA RIVER WATERSHED DISTRICT
BOARD OF MANAGERS
Tuesday, June, 17, 2014
MEETING MINUTES

Administrator Loomis asked if she can pay mileage to Intern Lily Mahan for driving to the meetings. Manager Shirk answered in the affirmative. Manager Kremer suggested talking to the HR Attorney about obligations regarding an intern.

Administrator Loomis referred to the boxes of tapes from meetings and asked for authorization to get dispose of any that are older than a year, which is according to State law. **The Managers approved disposing of meeting tapes that are more than a year old.**

B. President

President Francis was absent.

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 8:20 PM. Motion carried unanimously.

Kent Francis, President

Attest:

Linda Loomis, Administrator