



Minutes of Regular Meeting

Board of Managers

Wednesday, May 21, 2014

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

Approved June 17, 2014

1. **CALL TO ORDER AND ROLL CALL**

On Wednesday, May 21, 2014, at 7:02 PM in the Council Chambers of the Chaska City Hall, Chaska, Minnesota, President Francis 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. Also present was Linda Loomis, LMRWD Administrator.

2. **APPROVAL OF THE AGENDA**

President Francis introduced this item. Administrator Loomis reviewed the additions. She said there are attachments under Item 5A. She noted the revised agenda is included. Administrator Loomis said there is also an attachment to Items 6.B.2, 6.B.4, 6.C and an additional cost share application. Manager Shirk asked if the proposals for engineering and legal are covered. Administrator Loomis said she distributed that last time and the Managers had decided to have a meeting on June 4 at 5:00 pm, which has been posted on the website.

**Manager Francis made a motion to approve the agenda with the additions. The motion was seconded by Manager Shirk. The motion carried unanimously.**

3. **CITIZEN FORUM**

No Citizen Input

4. **CONSENT AGENDA**

President Francis introduced this item. Manager Shirk corrected the header on the minutes to include the correct date.

**A motion was made by President Francis to approve the Consent Agenda with the corrected meeting minutes of March 19, 2014, and April 23, 2014, Financial Report, and Payment of Invoices. The motion was seconded by Manager Shirk. VOTE: Ayes 3; Nays 0, Motion carried.**

5. **NEW BUSINESS**

A. **Mike MacDonald, MNDNR – Report on Seminary Fen**

Mr. MacDonald talked about some of the work the DNR has been doing. He explained a fen is a type of wetland found throughout the state that is specific to the types of plants and water chemistry. A fen is one of the two protected water resources in the state so you cannot take water from a fen or trout stream. He said a portion of the fen is now a scientific area.

Mr. MacDonald reviewed to the soil geology. He presented an elevation diagram showing the fen and the wells. He said sands in the bluff are probably feeding the fen. He referred to the map and said water flows downhill even if it is underground. He clarified the wells used to monitor the fen are not as far down as the bedrock. The wells were put in, in 2005, and they started measuring in 2009. Mr. MacDonald said the ones closest to the bluffs had the highest water elevations. He noted the water levels in the deeper wells and the shallow wells are similar for the lower fens.

Mr. MacDonald said the City of Chanhassen is required to monitor wells by Riley Park and did so from 2010 and 2011 but the City has not provided any data to the DNR since then. President Francis asked if Chanhassen is still monitoring. Mr. McDonald said he does not know, the DNR just asked this week.

Mr. MacDonald identified appropriation wells adjacent to the fen; at the golf course at the top of the bluff; Gedney; a couple along the river bed to the west and south of the fen; the City of Chaska municipal wells; Michael Foods; Chaska Foods; and a municipal well northwest of the fen. Mr. MacDonald noted they have some data from Michael Foods but they do not have anything from the City of Chaska. He does not believe the fen is fed from water through the bedrock. but more information is needed.

Manager Kremer asked about drain tile in the fen and vegetation surveys. Mr. MacDonald explained that breaking up drain tile is not a solution, as the drain tile is still there and provides a conduit for water albeit not a good conduit. Mr. MacDonald indicated he does not know when the last vegetative survey was done.

Mr. McDonald stated right now the fen is not in great shape and needs work. This is a very disrupted area and conditions of the fen vary from 'really not so good fen to not so bad fen'. Additional monitoring should reveal what could be done to restore the fen. Mr. Kremer asked about a management plan. Mr. McDonald said the Met Council is preparing something. Administrator Loomis said one of the attachments the Managers were given this evening was an email from the Met Council about monitoring data and whether or not a determination has been made to the impact of ground water appropriations on the water levels in the fen.

Mr. Kremer questioned how they can get the fen in better shape. Mr. McDonald said they need to make sure there is a source of water, stop the head cutting, get the invasive species out, look at ground water movements in the area and get more and better data. Administrator Loomis said the Met Council has some money to contribute toward additional wells but it is still an unknown as to what the cost will be. She noted the LMRWD has money

in the monitoring budget, about \$14,750 of which is available, but she suggested waiting to authorize spending the money until there is a contract.

**Manager Kremer made a motion to inform the DNR that the LMRWD is supportive of additional monitoring in Seminary Fen and will support monitoring financially at a cost not to exceed \$6,000. The motion was seconded by Manager Shirk. The motion carried unanimously.**

Mr. McDonald noted in looking at the Highway 101 construction and the concern about the fen, they thought about putting in a monitoring well but in doing that investigation. The DNR has determined the construction will not have any effect.

**B. Authorization for Cargill to access river via RMP 14.2 Site**

Administrator Loomis said since she prepared the packet and the executive summary, she had a meeting with Jake Newhall and Todd Hubmer at WSB. Cargill is able to access the site directly from the river so they do not need permission. However, they would like to put their dredge material on the LMRWD site and not have to use their own site. President Francis said they would address that under 6.B.

**C. LMRWD Inclinometer Readings**

Administrator Loomis noted the LMRWD has not received a report on the readings.

**6. OLD BUSINESS**

**A. Seminary Fen/Chaska Ravine**

Administrator Loomis said there is no extra money available so they are back to the 'drawing board' on the revised plan. She commented on a pipe qualifying for grant money.

**B. Dredge Management**

**i. USACE Right of Entry Agreement**

**a. Environmental Liability**

Administrator Loomis said John Hoffman will be invited to the June meeting. She noted the use of material on the dredge site is unrestricted. President Francis said he would like to see options as to how the LMRWD might address liability risk at the June meeting.

**Staff was directed to send President Francis contact information for John Hoffman and staff will continue to investigate the liability risk to the LMRWD.**

**ii. Rachel Contracting**

Administrator Loomis stated the terms of the new agreement was just received. She said Rachel Contracting will pay for the material and make improvements to the site so they can get trucks in and out. She noted one of the terms requested was there would be no access limitations to the site. Administrator Loomis said the amendment to the conditional use permit depends when the City of Savage receives the traffic study.

**Manager Kremer made a motion to approve the drafting of an agreement with Rachel Contracting to include all the issues raised in the May 21, 2014 meeting and any other issues the board feels necessary and the agreement is contingent of the conditional use permit. The motion was seconded by President Francis. The motion carried unanimously.**

**iii. City of Savage Conditional Use Permit**

The City of Savage is waiting to receive the Traffic Study. A draft of the Traffic is under review by LMRWD and is expected to be submitted to the City next week. The City will send it to MnDOT for review. Administrator Loomis detailed the timeline for approval of the amendment to the Conditional Use Permit.

**The Managers changed the date of the regular meeting to June 17, 2014 in case actions need to be taken as a result of the decision by the City of Savage.**

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

Administrator Loomis reported staff has just received the terms of an agreement with L S Marine was just received.

**The Managers directed staff to prepare a contract with L & S Marine to be considered at the June 4, 2014 Special meeting.**

**v. Acceptance of Private Dredge Material**

**a. Establish policies and procedures for management of private dredge material on RMP 14.2**

Administrator Loomis said they do not want to be stuck with material they cannot market and do not want to comingle the material. President Francis clarified private slip owners are just looking for a spot to put the dredge material. Manager Kremer asked what the date is for the City Council meeting. Administrator Loomis said June 16<sup>th</sup>.

**vi. Secondary Dredge Site**

**a. Port Development Assistance Program**

**b. MAC site/DNR site**

**c. LMRWD share of cost**

Administrator Loomis reported that only \$2 million was put in the port authority assistance program by the Legislature. She said she thinks the LMRWD qualifies according to the statute but wanted language added that made it clear. She noted Mn/DOT wanted \$10 million placed in the program. Administrator Loomis stated they need to revisit the argument that they need a site. Manager Kremer commented on the difference between mechanical and hydraulic dredging. Administrator Loomis said she does not think the Corps is looking at hydraulic dredging. President Francis clarified mechanical dredging is digging it up and hydraulic is vacuuming. He said the volume does not seem to be there and suggested challenging them why they need this.

**The Managers authorized staff to continue to work on this issue and whether or not they should proceed with acquisition of this site.**

**C. Approve June 19 TAC meeting agenda**

Administrator Loomis said she just received the TAC agenda yesterday. She said this is the plan to get to the end goal, which is an amendment to the Watershed Management Plan. Manager Kremer asked if staff needs authorization to work with HDR and if there was a not to exceed number. Administrator Loomis said Authorization was granted by the Managers at the March meeting and the not to exceed amount is \$2,500.

**D. CSAH 61/TH 101 Project Update**

Administrator Loomis explained that Ron Leaf felt he did not want to attend until the issue with the well had been resolved, which it has been, so he will probably provide an update next month. She noted there are also some public meetings that are on the executive summary.

**E. Receive Cost Share Incentive and Water Quality Restoration Program Applications**

Administrator Shirk said she thinks all three proposals they received look great. President Francis said if they have the budget they should do all of them. Manager Shirk commented on getting a sign.

**The Managers directed staff to review the applications, evaluate according to the LMRWD criteria, and make a recommendation to the LMRWD Board.**

**F. Eden Prairie request for reimbursement for Phase 1 stabilization project**

Administrator Loomis said this request for reimbursement was put in around December 2012. She stated there was \$67,681 budgeted but never spent for the project, which is half of what the project cost.

**Manager Kremer made a motion to reimburse the City of Eden Prairie and get a disclaimer from the City. The motion was seconded by Manager Shirk. The motion carried unanimously.**

**G. TimeSaver Proposal**

Administrator Loomis said TimeSaver will be on a trial basis. President Francis asked how much time is spent on minutes. Administrator Loomis said twice as much as the meeting length or more. She said there was a motion at the last meeting and the next meeting there will be an item on the agenda to authorize the agreement.

**H. BWSR Audit**

BWSR will conduct an audit of the LMRWD this year and have sent a notice to Administrator Loomis to begin the process. Administrator Loomis said she talked to the college student who contacted her about an internship. There are a number of projects that a bright young college student could accomplish for the LMRWD including preparation of the annual report.

**7. A. Administrator Report**

Administrator Loomis said she has provided a copy of the audit and it had been filed with the Secretary of State by the deadline. HLB Tautges filed the report with BWSR and the MNDNR as required by State Law.

Administrator Loomis stated the pollution control agency invited the LMRWD to participate in a Networking Fair at the Minnesota River Congress on June 19<sup>th</sup> for a fee of \$30. The Managers agreed Administrator Loomis had better things to do. Manager Kremer mentioned BWSR will be supporting legislation in the 2015 Legislature to develop funding to pay for agricultural BMPs and suggested Administrator Loomis contact the Friends of the Minnesota River.

Administrator Loomis reported on the aquatic invasive species training by Conservation Minnesota.

Administrator Loomis said the Campaign Finance and Public Disclosure Board questioned why the LMRWD had not filed its report. She said she had not received notification until last week. Administrator Loomis filed the report immediately but now there is a \$1,000 fine and a \$1,000 penalty. She explained they will request the fine to be waived. President Francis asked if there is an opportunity to plead the case. Administrator Loomis said she will find out.

Administrator Loomis commented on an agreement with the City of Carver about what is reviewed by the watershed and what is not. The Managers directed the Administrator to provide a copy of the agreement to them for review.

Administrator Loomis said she received a call from a resident in the City of Carver on heavy rain and lots of sediment washing onto his property from a new development. The Managers directed the Administrator to inform the City and let them handle the issue.

**B. President**

President Francis talked about record keeping and said the office needs to be cleaned up. Manager Kremer asked if there is a need to keep an office in order to have meeting space. Administrator Loomis reported that a number of businesses are popping up that rent meeting space. Managers discussed options for meeting space to conduct LMRWD business.

President Francis discussed an email the Managers received from Attorney Malkerson in regards to the letter received from an individual claiming to be an attorney representing former Administrator Schwalbe. President Francis detailed the steps he had taken to contact this individual and also discussion he had with attorneys he works with about how the LMRWD should respond.

**The Managers requested the meeting minutes reflect President Francis' attempts to contact the attorney claiming to represent former Administrator Terry Schwalbe.**

**C. Commissioners – No Report.**

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
Wednesday, May 21, 2014  
MEETING MINUTES

**D. Committees – No Report.**

**E. Legal Counsel - No Report.**

**F. Engineer - No Report.**

**8. ADJOURN**

**It was moved and seconded to adjourn at 9:16 PM Motion carried unanimously.**

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Kent Francis, President

Attest:

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Linda Loomis, Administrator