



Minutes of Regular Meeting

Board of Managers

Wednesday, April 23, 2014

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

Approved May 21, 2014

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

On Wednesday, April 23, 2014, at 7:01 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 the roll call to be taken. The following Managers were present: Kent Francis, Len Kremer and Yvonne Shirk. Also present were Linda Loomis, LMRWD Administrator, Taylor Luke, L & S Marine, Charlie Sawdey from the Carver County WMO, Clint Gergen and Greg Oberle, CHS, Dave Parenteau, Wenck, Steve Christopher, BWSR, Greg Genz, UMWA, and Chad Leqve and Al Dye, MAC.

2. **APPROVAL OF THE AGENDA**

President Francis introduced this item. No changes or additions were made to the agenda as presented.

3. **CITIZEN FORUM**

No Citizen Input

4. **CONSENT AGENDA**

President Francis introduced this item. Administrator Loomis requested the March 19, 2014 minutes be removed from the consent agenda.

**A motion was made by Manager Shirk and seconded by Manager Kremer to approve the consent agenda with the minutes from the March 19, 2014 meeting removed. The Consent Agenda includes the Minutes from the February 5, 2014 Special Meeting and the February 19 2014 Manager Meeting, the March Financial Reports, the Payment of Invoices, Approval of an Agreement between the LRMWD and the Children's Water Festival and Resolution 14- 03 Electing to drop Worker's Compensation Insurance coverage of Manager's and Auto Insurance coverage. VOTE: Ayes 3; Nays 0, Motion carried.**

5. **NEW BUSINESS**

A. **2013 Monitoring Report from Carver County.**

Mr. Charlie Sawdey, of the Carver County WMO, was present to report the result of 2013 monitoring to the Managers. Mr. Sawdey identified the water bodies that are currently monitored. Historical trends were not included in the report. Lab results were not reported as the samples are analyzed by Met Council lab and Met Council has not yet released the data. 2013 was a good sampling year and the WMO was able to gather quality data. Manager Kremer asked about what is done with well data that is gathered. Mr. Sawdey reported well monitoring data is sent to the DNR. Administrator Loomis reported monitoring reports are posted on the LMRWD website once the reports are received by the District. Mr. Sawdey suggested that If Managers have more questions regarding the Seminary Fen wells Mike MacDonald from the DNR would be the person to ask. Managers requested that Mr. MacDonald be invited to attend a future Manager meeting.

Mr. Sawdey reported the water quality in lakes monitored is very high and noted there is an increase in the goose population. Manager Kremer asked about aeration of Courthouse Lake. Mr. Sawdey reported that lake is aerated beginning in the fall and throughout the winter. The lake is stocked with trout by the DNR.

Mr. Sawdey reported on the wells in the Seminary Fen area. Mr. Sawdey located the well sites for the Managers and outlined the procedures for monitoring the wells. There are both deep wells and shallow wells. Several of the wells have data loggers that continually log data. Wells that do not have logging equipment, data is gathered monthly, so the data is not as detailed as the wells with the data loggers. DNR has data from within the SNA beginning in 2006. Carver County began monitoring in 2009, so their data only goes back to that year.

Mr. Sawdey identified areas that are being considered for additional monitoring in order to get a better understanding of how water is moving through the fens. Manager Kremer explained the original intent of the monitoring program was to determine how groundwater appropriations by the cities might be impacting the fen. Manager Kremer asked if any analysis along this premise has been done. Mr. Sawdey was not aware whether or not trends have been analyzed. Mr. Macdonald will be asked to address this at the next meeting.

Mr. Sawdey presented information regarding the cost of additional monitoring that amounts to \$6,500. Administrator Loomis reminded the Managers that the LMRWD had agreed to participate in the cost of additional monitoring wells at a cost not to exceed \$3,600. Manager Shirk asked if the 2014 Budget allows for additional spending for monitoring.

President Francis asked Mr. Sawdey if there were other partners that might be considered to participate. Mr. Sawdey indicated other agencies may be interested in participating financially. Met Council and the DNR were mentioned as possible partners.

The Managers thanked Mr. Sawdey for his presentation.

**Managers directed staff to arrange for Mr. Michael MacDonald to make a presentation to the Board and to look at the 2014 LMRWD monitoring budget and report back to the Board at the May meeting.**

**B. Report from Metropolitan Airport Commission (MAC)**

Mr. Al Dye and Mr. Chad Leqve were present to report to the Managers activities planned at the MSP Airport this year. Mr. Dye introduced Mr. Leqve to the Board.

Mr. Dye distributed a map of the airport with planned 2014 improvements identified. Improvements include bituminous improvements, pavement joint repair/replacement, gate pavement improvements, storm sewer rehabilitation, rearranging deicing areas and

associated lighting, charging stations for ground service equipment, terminal upgrades, and glycol recovery system program.

Manager Kremer asked Mr. Dye if discussions were held at the staff level about the LMRWD proposal to use a parcel of MAC property for dredge material management. Mr. Dye responded only preliminary discussions have been held. Mr. Dye would like more information about what the LMRWD is proposing. Administrator Loomis will provide Mr. Dye with the HDR report and the USACE response to the report.

**Managers thanked Mr. Dye and Mr. Leqve for the presentation.**

**C. Update on Flying Cloud Landfill**

Mr. David Parenteau, from Wenck Associates, was present to update the Managers about the progress at the Landfill since the January 2013 report to the Managers. About 60% of the waste that was proposed to be relocated has been moved. Work will begin May 1st to install a plastic liner. One half of the site will be closed this summer. At this time next year they will be preparing to close the second half and 2016 will be spent finishing up the project. On site sedimentation pond will accommodate all storm water from the site. Wenck is conducting weekly inspections of the storm water infiltration ponds. Mr. Parenteau informed the Manager that US Fish and Wildlife is planning a scheduled burn on the bluff above the Landfill this summer.

Managers asked when another update would be appropriate. Mr. Parenteau indicated that late fall would be an appropriate time for the next update, as the permanent storm water features will be installed.

**Managers thanked Mr. Parenteau for the presentation.**

**D. Sediment Reduction Strategy for the Minnesota River Basin and the South Metro Mississippi**

At the March Board meeting the Managers directed the Administrator to prepare a letter commenting on the Draft Sediment Reduction Plan. Administrator Loomis reported Manager Kremer had suggested Norman Senjem be requested to review the proposed plan and then prepare comments on behalf of the LMRWD. Mr. Senjem was able to prepare a letter, which was then review by Manager Kremer and President Francis before the letter was signed and sent to the MPCA. Copies were sent to LMRWD stakeholders and area legislators.

Administrator Loomis informed the Managers that several stakeholders thanked the LMRWD for the comments. The Administrator informed the Managers that Mr. Paul Nelson also commented on the draft Plan and that a copy of his letter was included in the meeting packet.

**No action was taken.**

**6. Old Business**

**A. City of Carver WMP**

At the March meeting the Managers authorized Momentum Environmental to review the WMP from the City of Carver on behalf of the LMRWD. Administrator Loomis apologized to the Managers for not providing the review of the Carver WMP to them prior to the meeting. The Administrator reminded the Managers that the LMRWD was invited to comment on the plan last summer and the District did not comment at that time. The city of Carver has since adopted the plan. Mr. Bradley Schleeter of Stantec, who prepared the plan

for the City, has informed the Administrator that the city will soon be looking at amending the plan. The Administrator requested the Managers to authorize sending a letter to the City of Carver with the LMRWD comments, apologize for not reviewing the WMP in a timely manner and requesting the comments be included in the WMP when the WMP is next amended.

**Manager Kremer so moved. Manager Shirk seconded the motion, which carried unanimously.**

**B. Seminary Fen/Chaska Ravine Update**

Administrator Loomis reported that revised plan is with BWSR. The LMRWD and the City of Chaska are awaiting a response from the agency. Administrator Loomis introduced Mr. Steve Christopher from BWSR who was in attendance. Mr. Christopher reported that Mr. Brad Wozney is the BWSR staff person working on this project. Mr. Christopher said he would check on the revised plan to see if he could expedite the response. Managers expressed concern that the project as proposed is not the most cost effective solution to the problem.

**No action was taken.**

**C. Dredge Material Update**

**a. USACE Right of Entry Agreement Update**

Administrator Loomis reported that the staff has conducted investigation into the LMRWD's liability risk with respect to the reuse of dredged material before continuing further negotiations with the USACE.

**i. Environmental Liability Insurance**

The LMRWD received a quote from an underwriter that provides environmental liability insurance. The Administrator Loomis reported the premium for Insurance is \$30,000 with a \$10,000 deductible. The LMRWD Attorney, Bruce Malkerson has not had an opportunity to look at the insurance quote and therefore no opinion from the Attorney is available. Managers discussed the liability of the LMRWD with respect to reuse of the dredged material and the adequacy of environmental testing of the dredged material. Mr. Taylor Luke, L & S Marine, was present and clarified the environmental testing that has been conducted on dredged material that is stockpiled on RMP14.2. Mr. Luke will provide the web address of the USACE Environmental testing results that indicate the dredge material qualifies as Level 1 - unrestricted use. President Francis then questioned the general liability insurance of the LMRWD. Managers requested Administrator invite Mr. John Hoffman of Wayside Insurance Advisors to the next meeting to explain the limits of the general liability insurance the LMRWD carries.

**Managers requested additional information about the general liability insurance the District carries and a legal opinion about the need for additional liability insurance to cover reuse of dredged material.**

**b. Rachel Contracting Update**

A contract with Rachel Contracting is not ready for the Managers to review. Staff is awaiting a response from an insurance underwriter and an amendment to the Conditional Use Permit, which was received today, April 23rd.

**Managers directed a contract be prepared conditioned upon amending the CUP.**

**i. Environmental Liability Insurance**

See C.a.i. discussion above.

**c. CUP Amendment Update**

The cost for a traffic study is higher than was authorized at the last meeting because the City of Savage wants MnDOT to weigh in on the impact to TH 13 and wants to see the routes to the end use locations. Managers requested wording of agreement be amended to remove what appears to be an hourly charge rather than the total charge.

**Manager Shirk moved approval of the agreement with SEH to conduct a traffic study at a cost of \$6,980.00. Manager Kremer seconded and the motion carried unanimously.**

**d. L & S Marine Update**

**i. Managing LMRWD RMP 14.2 site**

Administrator Loomis reported that staff has been waiting until the contract with Rachel Contracting is finalized, the USACE ROE Agreement is in place and the LRMWD Liability risk is addressed. The goal is to have L & S under contract when Rachel begins to remove material from the RMP 14.2 site.

**Manager Kremer made a motion to direct staff to prepare an agreement between L & S Marine and the LMRWD and bring to the May Board of Managers meeting for approval. The motion was seconded by Manager Shirk and carried unanimously.**

**ii. Managing Private Dredge Material**

Administrator Loomis reminded the Managers that they wanted to revisit the decision to accept material dredged from private barge slips. Mr. Taylor Luke from L. & S Marine answered questions posed by the Managers regarding the need for a site to store private dredged material as it dewater/decants. Mr. Luke was able to describe the procedure the St. Paul Port Authority uses to accommodate private dredged material. Manager Kremer asked if the Conditional Use Permit needs to be amended to include the accommodation of private dredge material. Administrator Loomis indicated that she believed there is nothing in the CUP that would preclude the LMRWD from accepting private dredge material, but the CUP will be reviewed to ensure this is allowable. Mr. Luke indicated approximately 25,000 cubic yard per year is dredged from the private slips. Managers asked question of Mr. Luke about how this would work procedurally.

**Motion was made by Manager Kremer to authorized staff to draft an agreement to be used between private slip owners that want to use RMP 14.2 for manage dredge material and the LMRWD. Motion was seconded by Manager Shirk and carried unanimously.**

**e. Additional Dredge Material Management site**

**i. MAC vs. MNDNR; or dual track**

The DNR suggested a site under the Cedar Avenue Bridge that is currently parking lot. Managers discussed the pros and cons of each site. Manager Shirk suggested following a dual track.

**President Francis made a motion to obtain a cost analysis/assessment of the DNR site similar to what was prepared for the MAC site at a cost not to exceed \$5,000. Manager Kremer seconded the motion, which carried unanimously.**

**ii. How will District raise funds for its portion of cost/share**

Managers discussed various ways to raise money for its share of any Port Development Grant. The LMRWD would need to raise \$300,000 for its share of the a \$1,500,000 grant request. Managers leaned toward assessing the benefiting properties. Managers discussed looking to the industries that benefit from the navigation channel and ask if they might provide grants for project like this. Staff was directed to determine the owners of benefitting properties in order

to set up a meeting between the property owners and the LMRWD to discuss options for raising money.

Mr. Clint Gergen from CHS addressed the Managers. Mr. Gergen maintained that many parties benefit from the navigation channel that the LMRWD is not able to assess, including fleet services, barge operators etc. Mr. Gergen thinks communication is vital and appreciates being included in discussions.

**Manager Kremer made a motion to direct staff to set up a meeting with benefitting property owners to discuss how the LMRWD might look to finance its share of the development of an additional dredge material management site. Manager Shirk seconded the motion. The motion carried unanimously.**

**f. Bonding Request Update**

Administrator Loomis and Mr. Ron Harnack have been working at the legislature. It appears the LMRWD will not be able to secure a direct appropriation from the State. The best chance would be to apply for money from the Port Development Assistance Program which is an 80/20 cost/share program. Staff is trying to get language added that would clarify by statute that the LMRWD qualifies for this program.

**No action was taken.**

**D. RFP Update**

The deadline to receive proposals was April 4, 2014. Two proposals for legal services were received and five proposals were received for engineering services.

**Managers called a special meeting for June 4, 2014 at 5:00 PM in the LMRWD offices at 112 E. Fifth Street, Suite 102, Chaska, MN.**

**E. Approve May 15, 2014 TAC meeting agenda**

Administrator Loomis informed the Managers a TAC meeting in May is not feasible and will meet with HDR to schedule a June TAC meeting. A proposed plan will be presented at the May meeting. Administrator Loomis and Shawn Tracy of HDR are scheduled to meet this coming Friday afternoon, to develop a plan for the TAC meeting.

**No action was taken**

**F. Status of Plan Amendment**

Administrator Loomis reported the plan amendment is contingent upon the TAC providing input to the Managers and will be part of the discussion at the TAC meeting.

**No action was taken**

**7. COMMUNICATIONS**

**A. Administrator's Report** - Administrator Loomis explained to the Managers that the contract between Naiad Consulting and the LMRWD specifies the Administrator position is limited to 120 hours. The past two months the level of work has exceeded that limit. The Administrator reported that rather than exceed the agreed upon hours, work has just been stopped or the end of the months has been adjusted in order to comply with the 120 hour limitation. This will not work continually. The tasks to be completed have been prioritized, with the dredge management taking #1 priority then the regular business of the Board, the payment of claims, meeting packets, minutes of meetings, fielding phone calls, daily emails and the 2015 Budget. The list of tasks include the lobbying activities (which is winding down) the annual financial audit (which is now complete) the plan amendment, which includes meeting with the TAC, the Annual Reports, Drafting Data practices and Record Retention Policies, closing the office, which involves, cataloging and storing of the LMRWD records.

**Managers proposed using Time Savers to prepare minutes and authorize an additional 20 hours per month for the Administrator.**

The Administrator requested direction from the Managers regarding attendance at meetings presented by other agencies. Managers directed that the Administrator should attend only meetings that have value to the LMRWD.

**Direction was to use discretion in deciding which meetings should be attended. Managers indicated that they could possibly attend meetings that would benefit the LMRWD.**

Administrator Loomis shared a plan with the Managers from Mr. Ed Crozier of the Izaak Walton League to develop a smart app that would allow people interested in exploring the Minnesota River Valley to download the app to their smart phone that would act as a guide.

Administrator Loomis asked Managers when they would like to visit the Seminary Fen/Chaska Ravine.

**Managers indicated they would like to schedule this in September.**

Administrator Loomis asked for direction from the Board regarding Comprehensive Plan Amendments and Watershed Management Plan reviews.

**Managers informed the Administrator that the Watershed does not review Comp Plans, but the District should review Watershed Management Plans.**

- B. President** - President Francis reported that he received a letter from an attorney representing former Administrator Terry Schwalbe. Mr. Schwalbe claims the LMRWD owes him additional sick leave. It is his position the sick leave referred to in the Separation Agreement includes the sick leave bank. It is the position of the LMRWD that it does not. President Francis does not feel the need for the LMRWD to respond.

**No action was taken.**

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

## 8. ADJOURNMENT

**It was moved and seconded to adjourn at 9:41 PM Motion carried unanimously.**

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Kent Francis, President

Attest:

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Linda Loomis, Administrator

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
Wednesday, April 23, 2014  
MEETING MINUTES