



Item 5A
LMRWD 5-15-2024

LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, April 17, 2024

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

Approved _____

1. CALL TO ORDER

A. ROLL CALL

On Wednesday, April 17, 2024, at 7:00 PM CST, in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Barisonzi called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD).

President Barisonzi asked for the roll call to be taken. The following Managers were present: Manager Laura Amundson, President Joseph Barisonzi, Manager Theresa Kuplic, Manager Apollo Lammers, and Manager Lauren Salvato.

In addition, the following attended the meeting in-person: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Consultant; John Kolb, Rinke Noonan Attorneys at Law, LMRWD Legal Counsel; Karli Wittner, Forestry and Natural Resources Supervisor, and Jason Goblirsch, Parks Construction Supervisor, both from the City of Eden Prairie; and Sarah Harding, Senior Landscape Architect, Stantec (on behalf of Eden Prairie).

Andrew Edgcumbe, Water Resource Technician, Carver County Water Management Organization; Hannah LeClaire, Water Resource Engineer and Jess Norby, Senior Water Resources Scientist, both from Young Environmental Consulting Group, LLC; Scott County Commissioner Jody Brennan; and Manager Ben Burnett, Prior Lake Spring Lake Watershed District attended the meeting virtually. Lisa Frenette, Frenette Legislative Advisors, joined the meeting virtually at 8:05 pm.

2. CITIZEN FORUM

No one was present to address the Board of Managers.

3. APPROVAL OF THE AGENDA

A. Additions, Corrections and Deletions to the Agenda

President Barisonzi introduced this item. He requested to add the approval of the One Watershed One Plan comments [from the March meeting] to the Consent Agenda and to move Action Item 7D to after item 9 as the Board plans to go into closed session for that item.

Manager Amundson made a motion to approve the agenda with changes. Manager Salvato seconded the motion. Upon a vote being taken the motion was carried unanimously.

4. PUBLIC HEARINGS & PRESENTATION

A. Presentation of report from Carver County Water Management Organization on 2023 monitoring, technical, education and other conservation services

Administrator Loomis introduced Andrew Edgcumbe from the Carver County Water Management Organization.

Mr. Edgcumbe reviewed the data collected from the 2023 monitoring. He also walked the Board through technical, educational, and other conservation services that were provided to the LMRWD by the Carver County WMO.

Manager Salvato asked if the County manages geese in any areas. Mr. Edgcumbe said he does not know of any geese management. He is unsure if the City manages geese.

Mr. Edgcumbe explained future biological monitoring they plan to conduct. They monitored in 2023 to set a baseline mussel survey and found very few mussels. He noted that mussels must have a fish host during its life-cycle and the lack of mussels may be indicative of a lack of fish.

Administrator Loomis inquired about monitoring at Seminary Fen. Mr. Edgcumbe explained that they download the data from the DNR and then send it off for analysis. They also upload their measurement to the State database.

The Board expressed gratitude to Mr. Edgcumbe for his presentation and the work carried out by / the Carver County WMO.

B. LMRWD Work Plan Quarterly Report

Ms. Young reviewed the LMRWD Work Plan for the first quarter of 2024. She discussed permits, education and outreach, and the Water Resources Restoration Fund, as well as updates on the projects that are included in the plan.

President Barisonzi asked what percentage of local government units (LGUs) they will have after adding Savage, Chanhassen, Chaska, and the Metropolitan Airports Commission this year. Ms. Young said they will have 100%.

President Barisonzi asked if they have a KPI goal or if the goal is to just have an agreement with each LGU. Ms. Young said the goal is to have these agreements. She said they have been actively working with each entity.

Administrator Loomis added that when they give these LGUs a municipal permit, the LMRWD monitors the LGU's ordinances to ensure that they comply with the LMRWD standards.

Attorney Kolb shared that in the Metropolitan Surface Water Management Act; Minnesota Statutes Chapter 103b is the statute that governs a lot of the authority that the LMRWD has. He added that this chapter says that once the District has adopted its watershed management plan that every municipality is required to update their water plan accordingly and adopt official controls to make sure they are enforcing standards that the District has.

President Barisonzi asked if they are on track with education and outreach in all areas other than social media which they have put on hold for the time being. Ms. Young said they are on track and going beyond the goals. She explained that the new people they have on board are so enthusiastic about education and outreach.

Ms. Schall Young continued with the update of work being done.

Manager Amundson asked about the floodplain modeling and who will be making the changes to Corps' model? Ms. Young shared that Young Environmental will be making all the modifications; however, they will be coordinating the criteria and assumptions with the Corps and the DNR to ensure consensus around their development.

Manager Amundson inquired about the timeline for completion. Ms. Young said they hope to have it done by the end of the year.

Administrator Loomis explained that one driving factors for updating the model was the observation of projects resulting in incremental rises that were acceptable to FEMA and the DNR. She noted the current model is 20years old and that the total of all the rises in elevation that have been allowed exceed the DNR and FEMA allowances.

Manager Amundson asked about the eight trout streams. Ms. Young said there are a number of unnamed streams, along with Kenally's Creek, Ike's Creek, Eagle Creek, and Assumption Creek.

The Board expressed gratitude to Ms. Schall Young for her presentation on the quarterly report.

5. CONSENT AGENDA

President Barisonzi introduced the item.

President Barisonzi asked to remove Item 5.C. viii. From the consent agenda and consider it in its normal sequence on the agenda.

A. Approve Minutes March 20, 2024, Regular Meeting

B. Receive and file March 2024 Financial Report

C. Approval of Invoices for payment

- i. Clifton Larson Allen (CLA) - Financial services through March 2024
- ii. TimeSavers Off Site Secretarial – Preparation of February 2024 meeting minutes
- iii. Rinke Noonan, Attorneys at Law – February 2024 Legal Services
- iv. Rinke Noonan, Attorneys at Law – March 2024 Legal Services
- v. US Bank Equipment Finance – April 2024 copier lease payment
- vi. Young Environmental Consulting Group, LLC – March 2024 technical, and Education and Outreach services
- vii. Naiad Consulting, LLC – March 2024 administrative services, mileage, and expenses
- viii. 106 Group – March 2024 services related to Area #3
- ix. Bolton & Menk – Engineering Services through March 22, 2024, related to Vernon Avenue
- x. Dakota County Soil & Water Conservation District – Q1 2024 monitoring & educational services
- xi. WSB – Area #3 land acquisition services
- xii. 4M Fund – January 2024 financial service charges

D. Report from the Citizen Advisory Committee

E. Reimburse Pilot Knob STEM school for educator mini-grant

F. Authorize execution of River Watch Agreement between LMRWD and Friends of the MN Valley

Manager Salvato made a motion to approve the Consent Agenda with changes. Manager Kuplic seconded the motion. Upon a vote being taken the motion was carried unanimously.

6. PERMITS & REPORTS ON STANDING BUSINESS ITEMS

A. LMRWD Permit Renewals

President Barisonzi introduced this item.

Manager Salvato made a motion to renew permits as recommended in Table 1 of Technical Memorandum – April 2024 Permit Renewal Requests dated April 10, 2024. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried unanimously.

B. Safety & Security Center Phase 2 (LMRWD No. 2023-022)

President Barisonzi introduced this item.

Manager Salvato questioned if the time sensitivity of this item is indicative of the quality of the application. Ms. Young clarified that they have encountered cases where the applicants prefer to proceed with mass grading first and referred the question to Hannah LeClaire, engineer with Young Environmental. In this instance, the application was received in October of 2023 but the applicant took considerable time to provide the requested materials. By the time the applicant submitted the necessary documents, the cut-off date for consideration at this meeting had already passed. The applicant wishes to start the mass grading of the project area prompting the project to be broken into phases to accommodate their request.

Regarding the stormwater management materials, Ms. LeClaire explained that they were unable to review them in time for this meeting due to the late submission.

President Barisonzi sought clarification on whether the Rule D work would be returned to the Board for review before being approved. Ms. LeClaire confirmed that Rule D would indeed be brought back to the Board as an amendment to this permit before granting permission for construction of any impervious areas.

Manager Amundson made a motion to approve a permit Safety & Security Center Phase 2 (LMRWD No. 2023-022) for site preparation and mass grading only (LMRWD Rule B). The applicant is required to amend the permit before construction of impervious surfaces and stormwater best management practices (BMPs) (LMRWD Rule D). Manager Kuplic seconded the motion. Upon a vote being taken the motion was carried unanimously.

C. Interstate 35W Early Release Project Permit (LMRWD No. 2024-004)

President Barisonzi introduced this item.

Manager Kuplic made a motion to approve a permit for Interstate 35W Early Release Project contingent upon receipt of a copy of the NPDES construction stormwater permit, contact information for the contractor(s) undertaking land-disturbing activities, contact information for the person(s) responsible for erosion control inspections and maintenance and final construction plans signed by a professional engineer. The motion was seconded by Manager Lammers. Upon a vote being taken the motion was carried unanimously.

7. ACTIONS ITEMS

A. 2023 Annual Report

President Barisonzi introduced this item.

Ms. Young shared that they did receive comments from Manager Salvato on suggested revisions to the report.

President Barisonzi shared that he also had some suggested revisions and would like the report to be accepted contingent upon the revisions suggested by himself and Manager Salvato.

The Board said the 2023 Annual Report was very well done and shared that they cannot wait to have this distributed on social media.

Manager Amundson made a motion to approve 2023 LMRWD Annual Report, authorize distribution and posting to LMRWD website, contingent upon revision as suggested by the Managers. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.

B. LMWRD Water Resource Restoration Fund application

President Barisonzi introduced this item. Karli Wittner, Eden Prairie Forestry and Natural Resources Supervisor, Jason Goblirsch, Eden Prairie Parks Construction Supervisor, and Sarah Harding, Senior Landscape Architect, Stantec were in attendance to answer questions from the Managers.

Manager Kuplic made a motion to contribute 15% of the project cost which equates to \$45,154 of the estimated project cost. The final contributed dollar amount will be based on the awarded construction contract. Contribution is contingent upon receipt of documentation that the project meets the permitting requirements of the LMRWD and other regulatory agencies, final signed construction plans and specifications, awarded contract and bid information, executed grant and maintenance agreement, and agreements that payments from the LMRWD are reimbursement based and require receipts of paid invoices as well as a summary of the work completed as part of the receipt/invoice. Manager Salvato seconded the motion.

Manager Amundson suggested that the motion be amended to make it clear that the maximum amount to be contributed would be the lesser of 15% of the awarded contract, or \$45,154.

Managers Kuplic and Salvato accepted Manager Amundson's amendment as friendly, so the amended motion was to contribute a maximum amount of 15% of the awarded contract, not to exceed \$45,154, with the contingencies mentioned.

Upon a vote being taken, the motion carried unanimously.

C. Biennial Solicitation of Letters of Interest for legal, technical & other professional services

President Barisonzi introduced this item.

Manager Salvato shared that she believes that VeCoeur, Inc. would be a good subcontractor when they are thinking about the strategic lens of education and outreach. She would like this to be considered when they are thinking about their work in 2025.

President Barisonzi made a motion to accept the letter of interest from Young Environmental Consulting Group LLC for Education & Outreach Services and to develop a Professional Services Agreement. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried.

President Barisonzi made a motion to accept submittal from Flaherty|Hood P.A. for Legal Counsel and develop a Professional Services Agreement between the LMRWD and Flannery & Hood P.A. Manager Salvato seconded the motion. Motion failed due to no vote being taken.

Manager Kuplic shared that she does not agree with this motion as she believes that Attorney Kolb has done a great job for the LMRWD and that his expertise and knowledge of the

watershed is hugely important to them. She said she does not see an advantage of switching legal counsel.

Manager Amundson agreed and stated that Attorney Kolb has served the LMRWD very well. She added that he and his firm have been very cost effective and efficient for the District and she worries about bringing someone else on board for legal counsel.

Manager Kuplic added that the cost to retain Attorney Kolb's services is less than what they are putting into the River Watch project. She explained that having good legal counsel that intimately knows the watershed is vitally important for what they do.

Manager Salvato shared that she is open to switching legal counsel for the lower hourly rate of Flannery & Hood. She added that Flannery & Hood also retains government relations within their firm which could increase the efficiency of spending for the Board in the future. She added that since LGUs can be a challenge for the Board, Flannery & Hood has this background working with LGUs and she sees this as potentially a good fit for the Board. She did agree that Attorney Kolb has history with the LMRWD and has served them well.

Manager Lammers said he would like to get more information on the two firms since he is new to the Board. He asked if they would be able to postpone this motion so he can get more information to be able to make this decision.

Manager Lammers made a motion to table this item to the next meeting so more information can be gathered on Flannery & Hood and Rinke Noonan. Manager Kuplic seconded. Upon a vote being taken, the motion carried with a 4-1 vote.

E. Area #3

At this point the Board of Managers closed the meeting pursuant to MN Statutes section 13D.05, subd. 3.c.3, to discuss the purchase of an easement or fee ownership interest of a portion of property located in Eden Prairie, Hennepin County PID #3511622230013 related to the Study Area #3 project.

The Board came out of closed session and offered a summary of directions the Board gave to staff provided during the closed session.

For the record, the Board of Managers of the Lower Minnesota River Watershed District directed staff to inform the current owner of the property under consideration for acquisition that the LMRWD will decline the first condition of the offer from the property owner, which would deny the City of Eden Prairie any access to the property and would accept the second condition which would provide a right of first refusal to the current owner in the event the LMRWD ever decide to dispose of the ownership of the property.

8. BOARD DISCUSSION ITEMS

A. Lower MN River East One Watershed One Plan

o Review of Joint Powers Organization

President Barisonzi introduced this item.

Attorney Kolb reviewed the JPO with the Board. He noted that the JPO was very vague on what authorities were being delegated and it was not clear as to why the joint powers entity was being

formed rather than a collaboration. He said there is not enough clear information in this JPO and he has a lot of questions that he was not able to get answered. He said he cannot in good conscience advise the Board to enter into this agreement at this time.

President Barisonzi asked if Attorney Kolb sensed that there was any opening to this agreement becoming a negotiation or if they would accept feedback and comments. Attorney Kolb said that based on his conversations with them he would say no and that his contact did not seem to want to be bothered with any kind of changes.

Administrator Loomis shared that the Steering Committee discussed this and it was their consensus that they did not want to revisit this. She noted that this agreement is likely going to be signed unless one of the County attorneys or the Minnesota Counties Insurance Trust takes a closer look at this.

President Barisonzi asked if they would want to propose a memorandum of understanding on what the LMRWD's role would be in this. Administrator Loomis said she would recommend waiting to see how this shakes out first.

President Barisonzi asked the Board if they were in agreement that this is not a plan they would like to sign on to but will rather be looking at how they can work with this plan. Manager Amundson said the Board never wanted to sign on to this and that they wanted to be a part of developing this plan, which they have done to the best of their abilities. She added that timing has been an issue with this plan.

Manager Kuplic made a motion to provide comments to the Lower Minnesota River East One Watershed One Plan Steering Committee and Policy Committee. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.

9. FOR INFORMATION ONLY

A. 535 Lakota Lane, Chanhassen – work without a permit

This item was for information only, there was no discussion of this item.

B. Dredge Management

o Vernon Avenue Improvement Project

President Barisonzi introduced the item.

Manager Amundson asked about the previous engineer's estimate for this project. Ms. Young said she did not recall a preliminary estimate being done. Ms. LeClaire said this is the first cost estimate that Bolton and Menk provided so they did not have a preliminary estimate going into this project and the cost came back higher than they anticipated.

President Barisonzi asked how they will come up with a funding strategy and who will approve it. Administrator Loomis shared that the Board will be approving the funding strategy. She noted they will be seeing this item again. She shared that they were hoping that they would be able to get this project constructed with what they have remaining from the current allocation and the new allocations they are expecting from the State. She said the cost came in higher than they hoped and they did not have the money to fund it. She added that they are looking at bonding options for funding.

Manager Salvato made a motion to conditionally approve to advertise for bids with modifications to the dates in the attachments once the funding strategy is approved. President Barisonzi seconded the motion. Upon a vote being taken, the motion carried unanimously.

Manager Salvato withdrew her motion pending action next month. President Barisonzi seconded.

C. 2024 Legislative Activities Update

Lisa Frenette, legislative liaison to the LMRWD, gave an update regarding activities at the legislature.

Attorney Kolb asked if the Senate file that contains River Watch funding has a House companion. Ms. Frenette said there is not a House companion at this time. She plans to speak with Representative Rick Hansen about including funding for River Watch.

D. LMRWD Permit Program Summary

This item was for information only, there was no discussion of this item.

10. COMMUNICATIONS

A. **Administrator Report:** Administrator Loomis shared that they were notified that they likely will have another after-the-fact permit coming forward from Hennepin County. She noted that they received communication from Shakopee High School students asking about Seminary Fen and Eagle Creek. Ms. Young was able to provide them with some great information. She stated that the Metro Watersheds had their membership meeting last night which contained some reports from State agencies; BWSR is conducting a soil modeling program; MPCA is updating its Nutrient Reduction Strategy; the Metropolitan Council has a comprehensive stream update that can be found at MetCouncil.org/streams; Metropolitan Council has scheduled a meeting on May 7th in Chanhassen to get feedback on the its new water policy plan; Met Council is studying wild rice lake in the metro area; MN Stormwater Research Council is conducting research on the effectiveness of Stormwater BMP and is planning to hold a conference for home owners association about stormwater management. She noted the Minnesota Watersheds Summer Tour is coming up in June and will be held in the metro area. The Minnesota Watersheds Annual Conference will be held at Grandview Lodge this year.

She added that she is working to schedule the Fen meeting as soon as possible.

B. **President:** President Barisonzi shared that they did not push forward on the Administrator evaluation as they needed to take more time to get this done properly.

C. **Managers:** No report

D. **Committees:** No report

E. **Legal Counsel:** No report

F. **Engineer:** No report.

11. ADJOURN

Hearing no further business, President Barisonzi adjourned the meeting at 8:51pm.

The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, May 15, 2024, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

Attest:

Lauren Salvato, Secretary

Linda Loomis, Administrator

DRAFT