



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, September 16, 2020

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

Approved October 21, 2020

1. CALL TO ORDER AND ROLL CALL

On Wednesday, August 19, 2020, at 7:04 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.

President Hartmann asked for roll call to be taken. The following Managers were present: Manager Adam Frey, Manager Dave Raby, President Jesse Hartmann and Manager Lauren Salvato. In addition, the following joined the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, 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; Steve Pany, Manager, Prior Lake Spring Lake Watershed District and Andrew Edgcumbe, Carver County WMO.

2. APPROVAL OF THE AGENDA

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

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: Frey, Hartmann, Raby and Salvato; the following voted against: None.

3. CITIZEN FORUM

Administrator Loomis said that she did not receive communication from anyone who wished to address the Board.

4. CONSENT AGENDA

President Hartmann introduced the item.

A. Approve Minutes August 19, 2020 Regular Meeting

B. Receive and file August 2020 Financial reports

C. Approval of Invoices for payment

- i. Frenette Legislative Advisors - July lobbying services
- ii. Daniel Hron - July 2020 office rent
- iii. Rinke Noonan Attorneys at Law - June 2020 legal services
- iv. US Bank Equipment Finance - August 2020 payment on copier lease
- v. Chimney Pines HOA - payment of 2019 Cost Share - Storm Water Buffer

- vi. **Renaе Larson - payment for 2020 Cost Share - rain garden installation**
- vii. **Lori Rathjen - payment for 2019 Cost Share - prairie restoration**
- viii. **TimeSaver Off Site Secretarial - for preparation of June 2020 meeting minutes**
- ix. **US Geological Survey - Q3 payment for sediment survey**
- x. **Young Environmental Consulting Group - For May 2020 technical services**

D. Receive and file letter from City of Eden Prairie

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

5. NEW BUSINESS

A. Presentation by Carver County WMO of 2019 monitoring results in Carver County

Administrator Loomis introduced Andrew Edgcumbe, Carver County Water Management Organization (CCWMO), who is going to provide a presentation.

Mr. Edgcumbe shared his screen and provided information on the 2019 monitoring results. He said CCWMO monitors 3 lakes, 4 streams and the seminary fen on behalf of the LMRWD. Lakes are Fireman's, Brickyard and Courthouse Lakes. Lakes are monitored for Chlorophyll a, nutrients and transparency. Lakes were also tested for Chloride and Calcium in 2019. Three stream sites on East Chaska Creek, and one on West Chaska Creek. Streams are monitored for nutrients, suspended solids and E. coli. They are monitored for temperature, PH and dissolved oxygen as well.

In Seminary fen, 19 pressure transducers in piezometers and deep well are monitored. All data is given to the MNDNR for analysis.

Mr. Edgcumbe reviewed the historical data. Monitoring data is used to look for trends not what levels are in any given year. Fireman's had the highest levels of analytes measured. Courthouse had the lowest. He said Courthouse had a 10-year downward trend of total phosphorus and chlorophyll a. Courthouse also had the best transparency and Fireman's the lowest. Fireman's is showing a decreasing trend in transparency over time. (The last 10 years)

President Hartmann asked what is causing the downward trend in Fireman's. Mr. Edgcumbe said he thinks it could be attributed to a large number of beach users. He said there have also been some bluff projects completed on the northwest He noted there is also a bluff area on the northwest side of the lake that may help to improve the transparency when complete that may help. He noted 2019 was also the wettest record which may have contributed to poor transparency.

Mr. Edgcumbe spoke about Chloride sampling in order to establish a baseline for future reference. All lakes were well below the state standard for Chloride. He noted they tested for calcium in order to determine if the lakes had sufficient calcium to be suitable for zebra mussels to become established. All lakes contain enough calcium; however none of them are currently infested.

Mr. Edgcumbe spoke about the results for the streams. The streams show no trend for nutrients and a downward trend for Nitrogen. Total Suspended solids also show a downward trend and no trend for E.coli over the last 10 years.

Manager Salvato asked if there have been any interventions such as alum treatment or aeration in the lakes. Mr. Edgcumbe said in Courthouse they do have an aerator, which is more for the trout fishery than it is for water quality. She asked about the data being shown as average

annual. Mr. Edgcumbe responded that said the stream data is annual and the lake data is summer. He noted that that is the protocol for taking measurements.

Mr. Edgcumbe talked about the trash. He noted that there was a large amount of trash collected at Fireman's Lake when they were conducting an aquatic vegetation survey. They did a resident survey and the public said the trash can at Fireman's are not emptied often enough. They held a clean-up event at Brickyard and collected 16 bags of trash in about 3 hours. Placing more trash cans was discussed, but city officials said they had tried that in the past and the trash cans ended up in the lake.

Mr. Edgcumbe reported on the pilot project where a trash collection boom was placed in East Chaska Creek. So far it has not collected any trash.

Manager Salvato commented on the trash at Fireman's Park and thanks Mr. Edgcumbe for efforts to collect trash.

Administrator Loomis asked about Carver Creek. Mr. Edgcumbe said they do monitor Carver Creek but it is upstream from the LMRWD reach. She asked if any monitoring is done on Spring Creek. Mr. Edgcumbe said they do intensive E. coli monitoring of Spring Creek every five years. He said that monitoring is being done this year.

Administrator Loomis asked Mr. Edgcumbe if East Creek 1 (EC1) was the Corps of Engineers Diversion Channel. He noted that it was. Further, he said there is a pond connected with the Channel that has collected a lot of sediment and is probably not functioning the way that it should. He surmised that might be a reason for the higher sediment loads at EC 1.

Administrator Loomis said the District would notify the City.

Administrator Loomis asked for a copy of the report.

B. Election of Officers

Administrator Loomis reviewed the positions and which Managers currently hold the position.

President Hartmann opened the nominations for any and all board positions.

Manager Raby asked about the remote participation and noted that there are a few meetings that he can only attend remotely. Attorney Kolb said the last communication with Carver County was left that the District and the County needed to come to a facilities co-use agreement about sharing the County's equipment. He noted that we now have experience working with WebEx and that the District needs may be leaner than originally thought. He noted that the difference between the state statutes that determine how we operate under COVID and how remote meetings would operate without the COVID emergency would be how robust the sharing of the meeting needs to be. He anticipates the board can continue until the middle of next year with the current situation. He noted that even after the Board is able to meet in person it is likely that the District will still have to provide a way for the public virtually.

Administrator Loomis said she touched base with the county and they are still shut down with no public meetings.

Manager Salvato nominated President Hartmann to the office of president. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Raby and Salvato; Abstain: Hartmann, the following voted against: None.

President Hartmann made a motion to nominate Manager Frey to the Vice president. The motion was seconded by Manager Salvato. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

President Hartmann made a motion to nominate Manager Salvato to Secretary. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

President Hartmann nominated Manager Raby as Treasurer. The motion was seconded by Manager Frey. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, and Salvato; Abstain: Raby; the following voted against: None.

C. Call for an EAW on Yellow Medicine County Ditch 9

Administrator Loomis said the District was asked by the Minnesota Valley Izaak Walton League to request an EAW on a drainage project in the Yellow Medicine Watershed upstream for the LMRWD. She said it the project lies within the Yellow Medicine One Watershed One Plan boundaries. She noted she thinks that the District will be asked to weigh in on project like this in the future. She said she would like direction from the Board as to how requests such as this should be managed. She doesn't believe an EAW will get the issues that the LMRWD is concerned with addressed and will only increase the cost of the drainage project. She noted the letter from Dr. Patrick Belmont that was provided and said he is very knowledgeable about water management in the MN River Basin.

Manager Raby commented on the information provided. He noted the report they received was a draft report and wondered if there were changes between the draft and the final report. Manager Raby said there probably won't be a lot of improvements made if an EAW is prepared. Manager Salvato agreed and questioned the goal of requesting an EAW.

Attorney Kolb provided his understanding of what are the goals of the Izaak Walton League. They have gone forward with this process (requesting EAWs) on numerous proposed drainage projects upstream from the District. He said incorporating best management practices stretches the resources of drainage authorities. He also noted there is not willing participation by many property owners. He said there is a limit as to what drainage authorities can do. This is an ongoing process that the Drainage Work Group (DWG) talks about quite often. He thinks that the State should take a hard look at drainage state-wide and develop water budgets by watershed and sub-watershed, so that drainage authorities so that authorities know what the limitations are within which they can drain. He said the District did decide to look at sedimentation issues and what the contribution is of upstream drainage is on the LMRWD, but that the Board needs to have a discussion about what it should be supporting and what it hopes to achieve.

Manager Salvato said she thinks a policy and further discussion makes a lot of sense and that drainage issues will get interesting when Atlas 14 is updated.

Ms. Della Young, technical consultant for the District, noted that this request seems rushed and that the request seemed to come out of the blue. She thinks the Izaak Walton League should have included the LMRWD earlier in the process and talked the District through what they are trying to accomplish. President Hartmann asked what the cost of a typical EAW is. Ms. Young said the cost can vary greatly depending on what is involved. President Hartmann liked the initiative and is said he is interested in learning what the bigger picture is. Manager Raby needs more information before agreeing to sign on to request an EAW.

Attorney Kolb shared his screen. He talked about statutory requirements for improvements to existing drainage systems.

Manager Salvato said she agreed with Manager Raby's comments and Ms. Young suggestion and that she would also like to learn more.

Manager Raby asked what action staff is requesting the Board to take. Administrator Loomis said if the board wants to join the petition a motion should be made. If the Board wants to take a step back they should provide direction to staff. Manager Raby questioned what that means; are we looking to invite them to discuss this with us? Or write a letter and request more information? Attorney Kolb suggested the Board get more information to determine whether it wants to take on drainage projects in a piecemeal approach or if we can come up with a broader solution. Manager Raby wanted to know what should be communicated to the Izaak Walton League. He asked if the District should respond that it doesn't feel it has adequate information to determine whether we ought to consider supporting individual projects versus looking at a bigger picture. And let them decide whether they want try to convince to change our position. Other Managers agreed with this.

There was some discussion as to how someone (Dr. Patrick Belmont) from Utah State University became involved in work on the Minnesota River.

Adminsitrator Loomis said she would communicate with the Izaak Walton League.

D. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail

Administrator Loomis said Mrs. Mueller is interested in clearing invasive species from the area of her yard that is within the Steep Slope Overlay District.

Administrator Loomis said she has spoken with the applicant and visited her property. She told the board that the applicant has done quite a lot of research on how to remove the invasive species, including, bringing in goats. President Hartmann said he likes the goat idea.

Manager Salvato asked if it is typical to use Cost Share for Buckthorn removal. President Hartmann explained the process of buckthorn removal and that once an area has been treated it is much more manageable as new buckthorn plants can be easily removed. Manager Salvato said her concern is future management of the Buckthorn if there is still Buckthorn on neighboring properties. Administrator Loomis said MS. Mueller has been trying to engage her neighbors to manage Buckthorn on properties next to hers.

Administrator Loomis reminded the Board that during the Plan approval process many residents expressed the desire to manage Buckthorn. The District felt removal of Buckthorn on steep slope appropriately is a high priority of the Districts.

Manager Raby said he shares Manager Salvato's concerns and stated some additional concerns he has; such as neighboring properties coming in for Cost Share funds individually and whether or not the property in question is privately owned or is in common ownership.

Administrator Loomis said it is possible that each individual owner could apply for the Cost Share Program in the future. She said District could see additional application as Ms. Mueller has been speaking to neighbors about submitting applications. However, Administrator Loomis has spoken to any other homeowners in this neighborhood. She noted that the Cost Share Program does require a 50% match. She also noted the property is privately owned and is not commonly owned by the Town Home Association.

Ms. Young reminded the Board that the District has looked at providing residents guidance on Buckthorn removal. She noted some conversations the District has had with other agencies and the possibility of getting funds from other sources. She said it seemed like a great test plot for a demonstration project. Manager Salvato noted that there are other pots of money home

owners could apply for. She also agreed with Manager Raby's comments about successive applications. President Hartmann noted that there are funds remaining for the Cost Share Program

Manager Raby said his concern is not whether there are funds in the current budget, but if this is an appropriate use of the funds. He did like Ms. Young's suggestion.

Manager Raby thinks it would be more appropriate to fund at a larger scale, he is concerned with the timing and whether or not the project could be done this year. President Hartmann noted the bid for this project says the project is best done in late fall. He said his concern would be that if this is done as a larger project would all 2021 budget be used up on Buckthorn removal.

President Hartmann asked Ms. Young how she envisions moving forward. Ms. Young suggested tabling this and talking to the applicant and neighbors. President Hartmann asked if tabling the project means that the project may not get done this year. Ms. Young say that is correct.

Manager Frey noted the area in question indicates that it is a no mow area. Legal Counsel said that he would have to see the actual to determine what is allowed. He doesn't think it would apply to nuisance species removal, but the actual document would govern. Manager Frey was concerned that removal did not cause erosion of the slope.

The board tabled this item and directed that staff look at increasing the scope of this project, looking for additional partners and developing demonstration project.

6. OLD BUSINESS

A. Request from Friends of the Minnesota Valley

Administrator Loomis said Ted Suss from Friends of the Minnesota Valley approached the District at the February Board meeting with two projects that he wanted the District to fund. The first project was to set up an educational booth at County Fairs within the MN River Basin and second project was to participate in the River Watch Program in the MN River Basin. The board tabled the decision pending further information. She said she has received additional information which was included in the packet. She said the request is for \$10,000 for the river watch program.

Manager Salvato asked if other watersheds would be asked to contribute to the program. Administrator Loomis said they will likely look for funding wherever they can find it. She noted the Red River gets funding for its program from the state.

Manager Raby said he would like Friends of the Minnesota Valley to approach other watershed districts for funding.

Manager Raby made a motion to approve the amount of \$10,000 with the direction that other watershed districts should be approached for funding in the future. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

B. City of Carver Levee

Administrator Loomis said there was a meeting with the City of Carver. The City was informed that the LMRWD was willing to participate. She was able to determine that the sense of urgency that the LMRWD felt was coming from the City was because the City had applied for a flood hazard mitigation grant from the State of Minnesota. The grant asked for funding to begin easement acquisition and design. She said that the Flood Hazard Mitigation Grant Program is dependent upon a bonding bill getting passed. She said they talked about steps that need to be

taken moving forward; the project needs to be included in planning documents of both the District and the City and that a no-rise evaluation will need to be done. She said a resolution will come before the Board at the October meeting.

Manager Salvato noted the Mayor of Carver reached out to her, as the representative from Carver County, to discuss the project and show her the levee, since Manager Salvato was not on the Board when the presentation was made.

C. Remote meeting participation

No new information to report since last update.

D. Dredge Management

i. Vernon Avenue Dredge Material Management site

Administrator Loomis said they will have a hard start date for the project once they meet on site. She said the amount of dredge material placed on site this year is included in the executive summary.

ii. Private Dredge Material Placement

Private terminal operators need to dredge again this season because of the water level of the river.

E. Watershed Management Plan

Administrator Loomis said district staff is recommending approval of municipal permits subject to the final review of the permit applications by staff for the following cities; Eagan, Mendota Heights, Chanhassen and Bloomington.

Attorney Kolb said one city asked the board to take on the permitting role for projects in that city which are located within the boundaries of the LMRWD. Administrator Loomis said the City of Eden Prairie submitted a letter, which was received and filed at this meeting. She said that LMRWD staff met last week to discuss the status of each city and its application for municipal permits. Municipalities must either apply for a municipal permit from the District or provide a letter similar to the letter from Eden Prairie. In absence of either, Attorney Kolb advised the city does not have an approved Local Surface water management plan and the LMRWD can assume land use authority for limited to those items covered by LMRWD rules. A letter will be sent to cities that have not yet applied. LMRWD Staff has been working with Shakopee and Carver. Chaska has told the District that they do not intend to apply for a permit. Staff will reach out to the Cities of Savage and Burnsville. Attorney Kolb said that if cities don't have an approved local control plan, cities will not be eligible for state cost shares and other programs. He also stated that having the LMRWD conduct reviews will impact the District's budget.

President Hartmann made a motion to approve municipals permits for the cities of Eagan, Mendota Heights, Chanhassen and Bloomington subject to final review by staff. The motion was seconded by Manager Raby. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann, Raby and Salvato; the following voted against: None.

F. 2020 Legislative Action

Administrator Loomis said there has been no activity at the legislature. While they met they did not pass any legislation. She noted the letter that is in the packet is what was sent to the governor and legislators before the most recent special session. She informed the Board that the joint letter the Board did not want to sign onto was not sent to the legislative leaders and the Governor with our name listed. A correction was made before it went public.

G. Education and Outreach Plan

Ms. Young provided an update. She said an RFP for videographers and producers was put together for a video for the 60th anniversary of the LMRWD. She said the themes of the video will be environment, commerce and people. She hopes to have a videographer on board by October 12th.

H. LMRWD Projects

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

No action items were presented on the agenda for this meeting.

I. Project/Plan Reviews

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

i. Greystone Headquarters/Canterbury Park

Administrator Loomis said this is part of a regional development in the City of Shakopee. Staff has reviewed the project and recommends approval with conditions.

Manager Raby made a motion to approve a permit for Greystone Headquarters with the following conditions:

- 1. All erosion and sediment control measures must be effectively installed and maintained according to LMRWD guidelines and MPCA NPDES Permit guidelines as laid out by current District Rules and Policies until all disturbed soils have been permanently stabilized.**

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

ii. Gaughan Demolition Plan

Administrator Loomis said staff is recommending approval of the Gaughan demolition plan subject to the conditions.

Manager Raby asked what the demolition is for. Ms. Young said this project is a larger apartment complex and they are getting rid of the existing facilities, getting rid of utilities and removing pavement. The actual project will need to apply for permit when it will be constructed.

President Hartmann made a motion to approve a permit 2020-0123 for the Gaughan Demolition Plan with the following conditions:

- 1. All erosion and sediment control measures must be effectively installed and maintained according to LMRWD guidelines and MPCA NPDES Permit guidelines as laid out by current District Rules and Policies until all disturbed soils have been permanently stabilized.**
- 2. Grading and excavating must not begin until the applicant has been noticed that a permit has been issued and required erosion control measures are in place. Working without a permit where required is in violation of LMRWD Rules and is a misdemeanor subject to penalty by law.**

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

iii. Quarry Lake Improvement Project

Administrator Loomis said this is for a portion of a park improvement project in the City of Shakopee. She noted that there were other improvements that the City has put on hold for the time being. This project will construct a mountain bike trail on the southern area of the park.

President Hartmann made a motion to approve a permit 2020-0115 for the Quarry Lake Park Improvements pending receipt of the following items:

- 1. A copy of the NPDES permit.**
- 2. Names and contact information for the contractor and the person responsible for compliance with the District's inspection and maintenance requirements.**

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

President Hartmann asked if this trail would be paved. Administrator Loomis said it would not be paved.

J. MPCA Soil Reference Values - no change since last update

7. COMMUNICATIONS

A. Administrator Report:

Administrator Loomis commented on the meeting for held Tuesday afternoon for planning area 56. Most of the discussion concerned the boundaries of the planning area. SHE reported that BWSR wanted to invite all the municipalities in the planning area to the table. The group was leaning toward Option A. Several entities have declined to be on the policy committee but would be on a technical advisory committee.

Administrator Loomis said the lobbyist position is up this year and asked the board if they

Administrator Loomis asked in Managers had received the notice from MAWD regarding resolutions. Managers were not sure whether or not they had received it. Administrator Loomis said she would forward the resolution packet to the Board and put it on the agenda for October for discussion.

Administrator Loomis said she spoke with Manager Salvato about the need for monthly meetings. Manager Salvato noted that it seems like a lot of time is spent putting together meeting packets. Manager Raby said he would be open to it. Administrator Loomis said it is up to the Board. If there are months where there is nothing urgent on the agenda the Board could skip a month. Attorney Kolb advised the Board the proposing to skip a meeting from time to time would not require a change to the bylaws. State statute requires that the Board meet once a year. As long as a meeting schedule has been adopted there are no additional requirements for noticing the meetings. If you do not have a set meeting schedule then meetings would be considered special meetings and have different meeting notice requirements. The Board can adopt a new meeting at any time.

Administrator Loomis noted that staff has decided to use a different consultant to monitor the inclinometers at Area #3

LOWER MINNESOTA RIVER WATERSHED DISTRICT
BOARD OF MANAGERS
WEDNESDAY, SEPTEMBER 16, 2020
MEETING MINUTES

The Board briefly discussed the response the District received from the City of Eden Prairie regarding the Oak Savannah area along Flying Cloud Drive between Charlson and Spring Road.

- B. Managers:** No Report
- C. Committees:** No report
- D. Legal Counsel:** No report
- E. Engineer:** No report

8. ADJOURN

At 8:58pm, President Hartmann made a motion to adjourn the meeting. Manager Raby seconded the motion. Upon a vote being taken the following voted in favor of the motion: Frey, Hartmann and Raby the following voted against: None.

The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, October 21, 2020 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

Dave Raby, Secretary

Attest:

Linda Loomis, Administrator