



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, September 18, 2019

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

Approved October 16, 2019

#### 1. CALL TO ORDER AND ROLL CALL

On Wednesday, September 18, 2019, at 7:00 PM in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Hartmann 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: Manager David Raby, Manager Adam Frey and President Jesse Hartmann. In addition, the following were also present: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, Technical Consultant; John Kolb, Rinke Noonan Attorneys at Law, Legal Counsel; and Lindsey Albright, Dakota County SWCD.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis said she had not changes or additions to the agenda.

Manager Raby commented on the minutes and said on the 6/17 minutes item 2. He suggested that an error be corrected where it states President Raby and Manager Hartmann.

Manager Raby said in the August minutes under item 7.a. regarding the MAWD resolution has duplicated sentences.

**Manager Raby made a motion to approve the Agenda, as amended. The motion was seconded by President Hartmann. The motion carried unanimously.**

#### 3. CITIZEN FORUM

There were no citizens who wished to address the board on non-agenda items.

#### 4. CONSENT AGENDA

President Hartmann introduced the item.

##### A. Approve Minutes July 17, 2019 and August 21, 2019 Regular Meetings

##### B. Receive and file August 2019 Financial reports

##### C. Approval of Invoices for payment

- i. Frenette Legislative Advisors - - July 2019 lobbying services
- ii. Daniel Hron - August 2019 office rent
- iii. Padelford Packet Boat Company - Boat rental for MN River tour
- iv. US Bank Equipment Leasing - September 2019 copier lease payment
- v. Daniel Hron - September 2019 office rent
- vi. Rinke Noonan Attorneys at Law - July 2019 legal services

- vii. **US Bank Equipment Leasing - October 2019 copier lease payment**
- viii. **WayPoint Insurance Advisors - D & O Insurance Annual Premium**
- ix. **Western National Insurance - Casualty Insurance Annual Premium**
- x. **Naiad Consulting, LLC - June 2019 Administrative Services & Expenses**
- xi. **Tierney Brothers, Inc. - Fee for remote meeting system design**
- xii. **TimeSaver Off Site Secretarial - June 2019 meeting minutes preparation**
- xiii. **US Geological Survey - MN River sediment monitoring**
- xiv. **Dakota County Soil & Water Conservation District - Q2 Dakota County monitoring**
- xv. **Young Environmental Consulting Group, LLC - July 2019 Technical Services**

**Manager Raby made a motion to approve the Consent Agenda. The motion was seconded by President Hartmann. The motion carried unanimously.**

## **5. NEW BUSINESS**

### **A. Election of LMRWD Officers**

Administrator Loomis said that it's time again to elect the officers.

Manager Raby noted he does miss some meetings so it would be hard for him to be president.

Attorney Kolb asked President Hartmann if he is willing to serve as President again. President Hartmann indicated he is not opposed to serving again. Mr. Kolb then asked if the other officers would be willing to serve

**Manager Raby made a motion to nominate the current officers to have the same positions next year as they have this year. The motion was seconded by President Hartmann. The motion carried unanimously.**

## **6. OLD BUSINESS**

### **A. MAWD**

Administrator Loomis said that the Board had directed that staff begin to put together a list of services that MAWD should be offering to the LMRWD and other Watershed Districts. She has been adding things to a list since that direction was given. She suggested that the Board should discuss this item before the MAWD Annual Conference and asked the Board to provide direction to staff as to when the Board would like to have this discussion.

A list of all the resolutions that MAWD had received for consideration at the Annual Conference this year was provided in the meeting packet. Manager Raby asked if MAWD had provided any information about whether or not the resolution submitted by the LMRWD would be recommended. Administrator Loomis said she has not heard anything from MAWD regarding what will or will not be recommended. Manager Raby asked staff to follow up on this. He then asked about the process MAWD used to determine what legislative items should be placed in the "parking lot" as was discussed at the last Metro MAWD meeting. Administrator Loomis said she is not sure how MAWD prioritized its legislative items. Manager Raby suggested that prioritizing legislative items should be done by the MAWD membership and not just a committee or the MAWD Board.

Attorney Kolb suggested that the LMRWD Board should go to the Resolution Committee meeting at the Annual Conference and ask about the "parking lot" issue. Manager Raby asked staff to touch base with the Executive Director of MAWD about the prioritization of legislative items.

The board discussed if a whether or not they should schedule a workshop. Manager Raby said it wouldn't hurt to have a workshop before the MAWD meeting. The Board scheduled a workshop at 5:30 pm before the November 20<sup>th</sup> board meeting.

**B. 2018 Audit report update**

The 2018 audit is not complete and the auditor is waiting for the LMRWD to resolve non-payment of the second half of the 2013 Clean Water Fund grant. Administrator Loomis commented on the grant, which was for ravine stabilization at Seminary Fen and said there is support at BWSR to help the LMRWD to secure funding to replace the grant money. She said that Lisa Frenette said BWSR indicated that they would support the LMRWD if it goes to the legislature for direct appropriation, if funding can't be found through other sources.

Administrator Loomis said that the Board should make a motion to write off receipt of grant. She also suggested the Board authorize submitting what is owed to the City of Chaska to pay for the costs of the project that they have incurred. The amount was \$110,800.

Attorney Kolb recommended not writing off the grant, but loaning the project money from the general fund upon an expectation of receiving additional funds from the state to cover the grant shortage. He suggested this so that there is a paper trail and that the LMRWD have a conversation with the Auditor

**Manager Raby made a motion to loan the seminary fen project the \$110,000+ that is the amount of the grant not paid by BWSR from the general fund with the understanding the LMRWD will continue to pursue getting that paid back by BWSR or the legislature. The motion was seconded by President Hartmann. The motion carried unanimously.**

Manager Raby asked if the auditor for some reason said that we cannot make a loan is there time to take this up at the next meeting. Administrator Loomis said that this should be able to be done.

**C. 2019 Cost Share Grants extension requests**

Administrator Loomis said this item was added to the August agenda, however it was not taken up at that meeting. She therefore added the item to the September agenda. She said one of the applicants asked for a July 31st deadline and the other thought the project would be complete by June 30th. In order to simplify the cost share program she recommended that both projects be extended until July 31, 2020. President Hartmann asked if funding for these projects would come out of 2019 or 2020 funds. Administrator Loomis noted this will come out of the 2019 funds because they were committed in 2019

**Manager Raby made a motion to extend the cost share projects to July 31, 2020. The motion was seconded by President Hartmann. The motion carried unanimously.**

**D. Bloomington request re: Ike's Creek**

Administrator Loomis said this item is carried over from the last meeting. The City of Bloomington asked the LMRWD to clarify the actual watercourse of Ike's Creek. There are some tributaries to Ike's Creek shown on the LMRWD maps. Staff has checked with the DNR whether or not there are tributaries to Ike's Creek. According to the DNR's Geospatial Commons there are no tributaries. Della Young noted that all changes to the maps in the LMRWD Plan and Rules will done at once with a map revision.

**E. Remote meeting participation**

Administrator Loomis said this was tabled at the last meeting so the Board could check to make sure the proposal meets the requirements of the State open meeting regulations and to get a

timeline. Attorney Kolb said the proposed equipment, if used properly, will meet the requirements. He said the public location and posting of the meeting in advance with date, time, location and purpose are required. Mr. Kolb said that the LMRWD will need to adopt a policy. He said that a notice should be posted at the location where the remote participant is; either in a place where meetings are posted or on the door of the meeting location.

Manager Raby said he would likely use the community center in the housing development that he lives in when he is out of state that is open to the public. Attorney Kolb noted the minutes will have to reflect someone is participating remotely. He said that the Board should consider requiring that a quorum of the Board be present at the regular meeting location, in case of technical difficulties. He said in the case of a technical glitch the remote portion of the meeting will be shut down and if a quorum is not at the regular meeting location, the meeting would effectively end. He discussed some of the other items the Board should consider and that will need to be addressed in the policy that the Board adopts. He encouraged the board to think about how the LMRWD would manage this with a 5-member board.

President Hartmann asked if other entities allowing managers to participate remotely have had any backlash from the public. Attorney Kolb said he knows of a couple others but no public backlash.

**President Hartmann made a motion to approve the Tierney contract for remote participation. The motion was seconded by Manager Frey. The motion carried unanimously.**

#### **F. Dredge Management**

##### **i. Review Process for funding of maintenance of Navigation Channel**

No new information other than that reported in the Executive Summary.

##### **ii. Vernon Avenue Dredge Material Management site**

Administrator Loomis said they are waiting for the permits. Staff is contemplating going out for bid yet this year. Attorney Kolb asked if staff anticipates getting the permits before the next meeting. Administrator Loomis said she didn't think they would get this before the October meeting.

##### **iii. Private Dredge Material Placement**

Administrator Loomis has no information about placement of private dredge material.

#### **G. Watershed Management Plan**

Administrator Loomis said the LMRWD staff received informal comments from Mendota Heights, Shakopee and Scott County WMO. Comments were received today from Eden Prairie. Manager Raby was curious about Egan, since they had asked for more time to respond to comments. The board discussed the comments. Administrator Loomis said they are looking for a motion to authorize staff to submit the rules to BWSR, subject to minor revisions to clarify the floodplain section.

**Manager Raby made a motion to authorize staff to distribute the draft rules according to statute subject to the minor revisions as discussed. The motion was seconded by President Hartmann. The motion carried unanimously.**

#### **H. 2020 Legislative Action**

Administrator Loomis said a list of items to work on with the Legislature was provided. She noted that one item was left off - to continue to work with Manager Raby said he didn't have anything to add to the list and thinks they are good items. He also said he was pleased with Lisa

Frenettes efforts on behalf of LMRWD regarding the decision by BWSR to not fund the second half of the 2013 CWF grant.

**I. Education and Outreach Plan**

No information to report since last update.

**J. LMRWD Projects**

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

**K. Local Water Management Plan Reviews**

**i. City of Shakopee**

The LMRWD has not received a response from Shakopee to the LMRWD comments.

**L. Project/Plan Reviews**

**MPCA Soil Reference Values - no change since last update**

No new information since last update.

**7. COMMUNICATIONS**

**A. Administrator Report:** Administrator Loomis said she had nothing more to add to her report.

**B. President:** No report

**C. Managers:** No report

**D. Committees:** No report

**E. Legal Counsel:** No Report

**F. Engineer:** No report

**8. ADJOURN**

**President Hartmann made a motion to adjourn. Manager Raby seconded the motion. The meeting was adjourned at 8:08pm. The next meeting of the LMRWD Board of Managers will be 7:00, Wednesday, October 16, 2019 and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN.**

---

Dave Raby, Secretary

Attest:

---

Linda Loomis, Administrator