



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, June 21, 2023

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

Approved August 16, 2021

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

On Wednesday, June 21, 2023, at 7:00 PM CST, 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).

President Hartmann asked for the roll call to be taken. The following Managers were present: Manager Laura Amundson, Manager Joseph Barisonzi, President Jesse Hartmann, Manager Theresa Kuplic, 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, LMRWD legal counsel; Steve Albrecht, Operations Administrator – Land, Shakopee Mdewakanton Sioux Community; and Jake Hendel, Water Resources Design Engineer, Bolton & Menk.

Manager Ben Burnett, Prior Lake/Spring Lake Watershed District, Scott County Commissioner Jody Brennan, and Gregg Thompson, Watershed Specialist, City of Eagan, joined the meeting virtually. Hannah LeClaire, Young Environmental Consulting Group joined the meeting virtually at 7:05 pm.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis asked for the addition of three invoices. Items 4. C. xvi. – TimeSavers Off Site Secretarial – for preparation of the May 2023 meeting minutes, 4. C. xvii. – Braun Intertec – for geotechnical investigation at Vernon Avenue project and 4. C. xviii. – I & S Group, Inc. – for wetland delineation at Vernon Avenue. She asked to remove Item 4. B. – May 2023 financial report.

**Manager Amundson made a motion to approve the agenda with the addition to the consent agenda of Items 4. C. xvi. – TimeSavers Off Site Secretarial – for preparation of the May 2023 meeting minutes, 4. C. xvii. – Braun Intertec – for geotechnical investigation at Vernon Avenue project and 4. C. xviii. – I & S Group, Inc. – for wetland delineation at Vernon Avenue and to remove Item 4. B. – May 2023 Financial Report. Manager Barisonzi seconded the motion. Upon a vote being taken motion carried unanimously.**

#### 3. CITIZEN FORUM

Administrator Loomis said she had not received communication from anyone that wished to address the Board, and no one present at the meeting asked to address the Board.

#### 4. CONSENT AGENDA

President Hartmann introduced the item.

**A. Approve Minutes April 19, and May 9, 2023 Regular Meeting**

**~~B. Receive and file May 2023 Financial Report~~**

**C. Approval of Invoices for payment**

- i. **Clifton Larson Allen (CLA) - Financial services through May 2023**
- ii. **Daniel Hron – July 2023 office rent**
- iii. **Rinke Noonan, Attorneys at Law – May 2023 Legal Services**
- iv. **Metro Sales – May 2023 payment on copier maintenance agreement**
- v. **TimeSaver Off Site Secretarial, Inc. – Preparation of April 2023 meeting minutes**
- vi. **US Bank Equipment Finance – June 2023 payment on copier lease**
- vii. **Young Environmental Consulting Group, LLC – May 2023 technical, and Education and Outreach services**
- viii. **Naiad Consulting, LLC – May 2023 administrative services, mileage, and expenses**
- ix. **Barr Engineering – May 2023 services related to Area #3 (wetland delineation & Threatened and Endangered Species Review)**
- x. **Bolton & Menk – May 2023 services related to Vernon Avenue**
- xi. **I & S Group, Inc. – April 2023 services related to Vernon Avenue**
- xii. **106 Group – May 2023 services related to Area #3**
- xiii. **106 Group – May 2023 services related to Vernon Avenue**
- xiv. **RailPros – May 2023 invoice for railroad flagging services related to Vernon Avenue**
- xv. **4M Fund – April Bank service charges**
- xvi. **TimeSavers Off Site Secretarial – for preparation of the May 2023 meeting minutes**
- xvii. **Braun Intertec – for geotechnical investigation at Vernon Avenue project**
- xviii. **I & S Group, Inc. – for wetland delineation at Vernon Avenue**

**D. Report on Citizen Advisory Committee**

**E. LMRWD Permit Renewals**

**F. LMRWD Permit Program Summary**

**G. Request to reimburse 2022 Educator Mini-grant for Black Hawk Middle School**

**H. Concourse G Infill Pods 2-3 Phase 1 & 2 (LMRWD No. 2023-012) Administrative Approval**

**President Hartmann made a motion to approve the Consent Agenda as amended under the approval of the agenda. Manager Salvato seconded the motion. Upon a vote being taken motion carried unanimously.**

**5. NEW BUSINESS/PRESENTATIONS**

**A. Eagan River Valley Acres (RVA) Funding request review**

Administrator Loomis introduced this item. She shared the City of Eagan’s request for financial support on this project and details of the project.

Ms. Young discussed the budget for the Watershed Resource Restoration Fund and explained that there has traditionally been a line item in the budget for these types of projects. She noted that nothing has been spent from this fund so far this year. She shared that she has discussed with Administrator Loomis how they will receive these projects in the future as the current process is not as organized or competitive. She discussed the methodology used to determine the recommendation for 15% funding.

Gregg Thompson with the City of Eagan attended the meeting via Zoom and shared that he was happy to answer any questions.

**Manager Barisonzi made a motion to approve recommendation to fund up to 15% of the project cost for Eagan River Valley Acres (RVA). Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**B. Lower Minnesota River East One Watershed One Plan Governance**

Administrator Loomis introduced and provided background on this item. She shared that they are part of the Lower Minnesota River East One Watershed One Plan planning process. The Policy Committee is at the point where it is looking at difference governance models for the creation of an entity that will oversee the implementation of plan once it has been approved. She shared that the Lower Minnesota River East One Watershed One Plan would like to have a discussion of this at their July Policy Committee meeting. She stated that Manger Amundson cannot attend this meeting and that the Committee would like to see if any of the other Managers could attend in her absence. She explained that she does not think that they have fully explored all of the potential governance models that are out there. She added that she, Manager Amundson, and legal council have discussed this and she is not sure what the best alternative would be for the LMRWD. She shared that the LMRWD requested that it be noted somewhere in this plan that the LMRWD has their own plan and this new plan is not going to override their plan.

Manager Amundson reviewed more of the information concerning the governance models with the Board.

LMRWD Attorney John Kolb reviewed and gave background on what a One Watershed One Plan is. He stated that the Lower Minnesota River East One Watershed One Plan does not include the LMRWD's whole district and that they may be split between three different joint powers entities. He noted that they do not have to participate in a particular governance structure as they already are their own governance structure. He shared that he, Administrator Loomis, and Manager Amundson discussed putting a placeholder in this plan as nothing in this plan that takes away from the LMRWD. He reviewed his presentation on the One Watershed One Plan operational arrangements. He also recommended that the LMRWD may want to enter into a Memorandum of Agreement with whatever entity is formed as a result of the planning process.

The Board discussed that there are unanswered questions that they would like to have the answers to before they decide. Attorney Kolb stated that he is not sure that they will be able to get these answers from BWSR.

The Board discussed the understandings between the parties in this agreement. Attorney Kolb shared that there is a memorandum of agreement already in place to plan.

Administrator Loomis explained that there are many other similar plans like this out there with other governance models.

The Board asked how far along in the process the Lower Minnesota River East One Watershed One Plan is. Manager Amundson stated that the planning and areas of focus have already been established.

Administrator Loomis explained that the advisory group has set goals and found resources. She added that they have also discussed goal measures and resource protection. She noted that they are close to having a plan together. She stated that they have not discussed how this will be staffed, implemented, and funded.

Attorney Kolb reviewed his presentation on the One Watershed One Plan operational arrangements. He discussed joint power entities, determining an appropriate structure, and the decisions that need to be made prior to entering one of these agreements. He also discussed the key elements of implementation for a One Watershed One Plan. He stated that they do not have to decide tonight on whether or not they participate in this, but they will need to make the decision soon.

Administrator Loomis discussed that part of this has to do with the amount of sediment and nutrients that are coming from upstream, in areas that are outside of a certain district. She gave the example of Scott County and how the upper part of Sand Creek is outside of their county, and they are not able to do projects in that area. She added that it is possible that this plan may impact the LMRWD's ability to get watershed-based implementation funding as funding may be split.

The Board discussed the values and the drawbacks of this plan.

Attorney Kolb reviewed the difference between a joint powers collaboration or a joint powers entity.

Administrator Loomis shared that the LMRWD has given funding to projects that were outside of the district and stated that there is nothing prohibiting them from giving these funds as long as they see it as beneficial to the district.

The Board gave feedback on the information that was presented at this meeting. No action required.

## 6. OLD BUSINESS

### A. 2021 Financial Audit

Administrator Loomis introduced this item and shared that Redpath and Company has agreed to doing a two year audit which will cost \$25,000 per year. She shared the recommendation from legal counsel to get the legislature to give resources to the Office of the State Auditor so that they can provide audit services to some of the smaller, local governmental units, such as watershed districts. Legal counsel noted that the LMRWD is not alone in its difficulty finding auditors and getting audits prepared. She stated that they will be sending a letter to the former audit firm. Attorney Kolb stated that this letter should go out within the next week.

**President Hartmann made a motion to authorize a request for proposals to provide audit services for FY 2023. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.**

### B. 2027 World EXPO – “Healthy People, Healthy Planet – Wellness and Well Being for All”

Administrator Loomis introduced and provided background on this item. Bloomington was not chosen as the site of the 2027 World Expo.

### C. 2023 Cost Share Applications

Administrator Loomis reviewed the five applications for cost share projects. She stated that the total of all five projects would come to over \$21,000 and funding could come from the Water Resource Restoration fund.

The Board asked if they would not accept any other applications for the rest of the year.

Administrator Loomis explained that decision is up to the Board. She noted that there is an applicant that is interested in submitting an application, but that is for a project for 2024.

The Board discussed potentially limiting funding to the same groups to every other year and not back to back years.

Administrator Loomis shared that she has looked into cost share programs for other watershed districts and stated that the LMRWD is the most conservative. She added that there will be a draft budget at the July meeting.

The Board discussed the May deadline being a little late in the year for these applications to be submitted.

**Manager Amundson made a motion to approve all cost share applications as presented and the amounts requested. Manager Kuplic seconded the motion. Manager Salvato offered a friendly amendment to the motion, asking that LMRWD staff evaluate cost share programs offered by other watershed districts and recommend changes to the LMRWD. Managers Amundson and Kuplic accepted Manager Salvato's amendment. Upon a vote being taken, the motion carried unanimously.**

**D. City of Carver Levee**

No new information to report since the last update.

**E. Dredge Management**

**i. Vernon Avenue Dredge Material Management site**

Administrator Loomis introduced this item and provided an update on the project to improve Vernon Avenue.

**ii. Private Dredge Material Placement**

No new information to report since last update.

**F. Watershed Management Plan**

No new information to report since the last update.

**G. 2023 Legislative Action**

Administrator Loomis introduced and provided background on this item. She discussed the projects that received funding.

The Board asked about the funding provided for water storage. Administrator Loomis explained that BWSR is going to try to identify larger projects and how they can make more of a difference with water storage.

**H. Education and Outreach Plan**

No new information to report since the last update.

**I. LMRWD Projects**

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

**i. Area #3**

Administrator Loomis introduced and provided background on this item. She shared that she met with the property owners on site at the property and she asked them to consider selling the portion of their property or allowing an easement for the property in the City's right-of-way for Riverview Road and the river. She noted that State funds can be used for this purchase. She stated that they will need to determine how they can raise their match from the State. She added that she contacted a consulting firm who may be able to assist and

there is a meeting set up with the firm next week. She gave an update on the progress of the project.

**ii. Spring Creek**

Administrator Loomis introduced this item. She shared that they have requested proposals for some design work at Sites 1 and 2. She noted that they received a proposal from ISG for the work.

Della Schall Young explained that only one response was received from the firms in engineering pool that were qualified to do this type of work. Other firms responded that they did not have the capacity at this time to undertake an additional project.

**Manager Barisonzi made a motion to approve ISG as the firm to design the Spring Creek Sites 1 and 2 for a total fee of \$79,930 with an additional \$10,000 to allow for geotechnical soil borings, as needed for a total cost of \$89,930. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**iii. LMRWD 2023 Gully Assessment**

Administrator Loomis introduced and provided background on this item. She stated that the Young Environmental interns are conducting these assessments and will make a presentation to the Board at the July Board of Managers meeting.

**J. Project/Plan Reviews**

***(Only projects that require Board action will appear under this item. Informational updates will appear under item 4.G – LMRWD Permit Program Summary)***

**i. Shakopee Mdewakanton Sioux Community Organic Recycling Facility (LMRWD No. 2022-016)**

Administrator Loomis introduced and provided feedback on this item. She shared that Young Environmental has reviewed this project and recommended conditional approval for Rule B.

The Board noted that work has already started at this site and asked if that was appropriate prior to granting this permit. Ms. LeClaire stated that she was not aware that site preparations have already started. She asked if it extended beyond tree removal. The Board noted it was just tree removal.

Operations Administrator – Land, Shakopee Mdewakanton Sioux Community, Steve Albrecht, came forward and stated that the only things that have been done at this site were approved by Scott County. He gave an updated on other work and permits for this site.

Ms. Young noted that if they are not disturbing soil then the tree removal is not harmful.

**Manager Barisonzi made a motion to conditionally approve a permit for LMRWD Rule B for Shakopee Mdewakanton Sioux Community Organic Recycling Facility Relocation (LMRWD No. 2022-016) contingent upon receipt of a copy of the NPDES permit. Manager Kuplic seconded the motion. Upon a vote being taken motion carried unanimously.**

**ii. AT & T Bloomington to Eureka Fiber (LMRWD No. 2023-009)**

Administrator Loomis introduced and provided background on this item. She shared the recommendation for approval with the stipulation that the LMRWD be notified upon the discovery of disturbed groundwater or any release of lubricant fluid.

Ms. LeClaire shared examples of when disturbed groundwater or lubricant fluids were released.

The Board asked about the risk assessment analysis of this work. Administrator Loomis stated that she does not have that answer but the stipulation could be expanded upon to include a plan in case there is any disturbed groundwater or lubricant fluids released. Ms. LeClaire stated that AT&T does have a plan for if there is any kind of release of groundwater or lubricant fluids.

The Board asked if the Board has always approved these permits in the past. Della Schall Young stated that since the LMRWD has had a permitting program an application like this has not been denied. She shared that this project has more risk than the other projects that have been approved but the applicant has worked to mitigate some of the risk. Legal Counsel provided additional information and noted the MPCA has a protocol for releases for as little as 80 gallons and will show up with an entire response team.

Administrator Loomis explained that there are already a number of these types of lines under the river that range from sewer lines and fiber optic lines to natural gas pipelines.

**President Hartmann made a motion to approve a permit for AT & T Bloomington to Eureka Fiber (LMRWD No. 2023-009) with the stipulation that the LMRWD be notified immediately upon the discovery of disturbed groundwater or any release of lubricant fluid. Manager Salvato seconded the motion. Upon a vote being taken motion carried. Manager Barisonzi abstained.**

**iii. Lilydale LGU Permit**

Administrator Loomis introduced and provided background on this item. She noted that Lilydale is within the Mississippi River Critical Corridor Area and state regulation within that area are more prescriptive than LMRWD rules.

**Manager Salvato made a motion to conditionally approve an LGU Permit for the City of Lilydale contingent upon the City's adoption of the draft SWMP and official controls presented in the City's application and to adopt Resolution 23-06 - Approving the Surface Water Management Plan for the City of Lilydale. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**iv. 535 Lakota Lane, Chanhassen – work without a permit**

Administrator Loomis introduced and provided background on this item. She noted that the LMRWD has not heard from the property owner since the beginning of May. He retained the services of a surveyor, and we received a surveyor that provided a survey that was deficient to the LMRWD needs.

**Manager Kuplic made a motion to recommence legal action against the property owner. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

Attorney Kolb explained the process that will follow this motion.

**6. COMMUNICATIONS**

- A. **Administrator Report:** Administrator Loomis stated that she didn't have anymore to add. She noted that she attended the Minnesota Association of Watershed Administrators Tuesday in Albert Lea. Based on observations from the meeting, she thinks the decision to not rejoin Minnesota Watersheds was the correct decision for the Board.
- B. **President:** No report

- C. **Managers:** Manager Salvato announced that she has determined what her presentation at the Metro Children’s Water Festival will be. Manager Barisonzi reminded the Board that the Board will meet on Monday at the Izaak Walton League Chapter House.
- D. **Committees:** No report
- E. **Legal Counsel:** No report
- F. **Engineer:** No report

**7. ADJOURN**

**At 8:52, President Hartmann made a motion to adjourn the meeting. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, July 19, 2023, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

Attest:

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Lauren Salvato, Secretary

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Linda Loomis, Administrator