



Minutes of Regular Meeting

Board of Managers

Wednesday, September 17, 2014

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

Approved October 14, 2014

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

On Wednesday, September 17, 2014, at 7:09 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 roll call to be taken. The following Managers were present: Kent Francis, Len Kremer, and Yvonne Shirk. Also present was Linda Loomis, LMRWD Administrator, Clint Gergen, of CHS and Curt Hennes, President of the Prior Lake Spring Lake Watershed District.

**2. APPROVAL OF THE AGENDA**

President Francis introduced this item. Administrator Loomis recommended that Item 4.E. be tabled until the October meeting and the addition of Item 4.G. - Authorize Agreement for Legal Services.

**President Francis made a motion to approve the agenda of September 17, 2014 as amended. The motion was seconded by Manager Shirk. The motion carried unanimously.**

**3. CITIZEN FORUM**

No Citizen Input

**4. CONSENT AGENDA**

- A. Approval of Minutes August 20, 2014 Regular Meeting and September 10, 2014 Special Meeting**
- B. Approval of Financial Report**
- C. Approval of Payment of Invoices**
- D. Authorize Execution of Letter of Engagement with Redpath and Company, LTD for 2014 Audit Services**
- ~~**E. Authorize Terms and Conditions for Professional Services between Burns & McDonnell and LMRWD**~~
- F. Adopt Data Access Policy**
- G. Authorize Agreement for Legal Services**

**A motion was made by Manager Shirk and seconded by Manager Kremer to approve the Consent Agenda with 4.E. removed. VOTE: Ayes 3; Nays 0, Motion carried.**

## 5. NEW BUSINESS

### A. Election of Watershed District Officers

President Francis said regardless of his plans to move to Arizona he was going to step down from his position as President. Managers discussed the requirement of the Bylaws for more officers of the District than there are currently Managers.

**A motion was made by President Francis and seconded by Manager Shirk to approve election of Len Kremer as President, Manager Shirk as Vice President and President Francis as Treasurer and Secretary, with terms of office to begin with the October meeting. VOTE: Ayes 3; Nays 0, Motion carried.**

### B. Approval of Watershed Bylaws

Administrator Loomis said the bylaws are supposed to be reviewed every 5 years and the last time they were reviewed was in 2006. The Bylaws have been reviewed by the Administrator and Attorney John Kolb. Some changes to the Bylaws are recommended. Administrator Loomis noted the Bylaws require a 30 day period for a notice for changes to the Bylaws, but the changes are not substantial and the Administrator recommends approval of the Bylaws and waiving the 30 day notice.

~~**A motion was made by President Francis to approve the bylaws with the elimination of an assistant treasurer and combining the position of secretary and treasurer.**~~

The Managers discussed amending the Bylaws to combine officer positions. The Administrator said the bylaws could also be suspended until there is a full board or for one year, rather than amending them. The Board decided that the Bylaws didn't require every officer position to be filled and it also didn't prohibit one person from holding more than one position.

**The motion was withdrawn.**

**A motion was made by Manager Shirk and seconded by President Francis to adopt resolution 14-14 approving the amended bylaws as presented and waiving the 30 day notice. VOTE: Ayes 3; Nays 0, Motion carried.**

## 6. OLD BUSINESS

### A. South Metro Mississippi River TSS TMDL Contested Case Hearing.

Administrator Loomis reported she spoke with Norm Senjem and he advised it is premature for the LMRWD to withdraw the case for the contested case hearing. She explained a contested case hearing has to be made on factual evidence and not policy. She said continuation by the LMRWD with the request for a contested case hearing would provide balance to the claims of the agricultural community. Administrator Loomis noted the redraft of the TMDL replaces the implementation plan with the sediment reduction strategy. She said it was suggested to work with some partners. Manager Kremer asked what is being done with the Lake Pepin group. Administrator Loomis said the suggestion was to have a meeting to talk about strategies. She noted this is a window of opportunity to make a change and to take a stand. Manager Kremer said he agrees with going ahead with the recommendation.

### B. LMRWD Inclinometer readings

Administrator Loomis said she has been unable to get a response to the ongoing issues with the inclinometer readings. She has been working with Bill Holman from the Stanley Group. Manager

Kremer asked Administrator Loomis to send him Mr. Holman's telephone number and said he would speak to Mr. Holman.

**C. Seminary Fen/Chaska Ravine**

**i. Adopt Resolution 14-05**

**ii. Authorize Joint Powers Agreement**

Administrator Loomis asked that this item be tabled until the October meeting.

The documents are under review by Attorney John Kolb.

Manager Kremer asked if delays will have any problems with the timing of the grant and asked Administrator Loomis to check with BWSR and to get a letter stating whatever response they make.

**D. Dredge Management**

**i. USACE Right of Entry Agreement**

Administrator Loomis said they have not had any dealings with the Corp of Engineers since June.

**a. Environmental Liability**

Administrator Loomis reported that all documentation received from the Insurance Broker was sent to Attorney Kolb. The Attorney suggested adding a new clause to Rachel Contracting to eliminate the need for environmental liability coverage, but Rachel would not accept the proposed change. She said there should be some recommendations in October. President Francis said it would be helpful to have some options with the names of the companies, ratings and deductibles.

**ii. Rachel Contracting**

Administrator Loomis said Rachel Contracting's legal counsel has the agreement. The issue holding up execution of the Agreement is the cost of the condition of Vernon Avenue at the end of material removal. She noted she walked Vernon Avenue with Savage city staff and the condition is very poor. She noted they have pictures taken every 100 feet on Vernon Avenue. Managers discussed the cost of the repairs to Vernon Avenue after material is removed versus the cost Rachel is paying the watershed for the material. Administrator Loomis said the question is how a watershed could pay for public roads.

**iii. LS Marine Contract**

LS Marine has the agreement for management of the LMRWD RMP 14.2 site and Administrator Loomis said she has spoken with Taylor Luke who has indicated they are close to being ready to sign the agreement.

**a. Operation Manual for Material Management at LMRWD Dredge Disposal Site R.M.P. 14.2**

**b. Port Development Assistance Program**

Administrator Loomis said dredging of the private barge slips is beginning. President Francis clarified that includes the operation manual. Administrator Loomis commented on the port development assistance program and said that is for capital improvements only and roads can be part of the program.

**iv. Acceptance of Private Dredge Material**

Administrator Loomis said all the agreements are executed and the LMRWD is ready to move ahead with placement of material on the site as soon as the partners are ready. She is waiting for a certificate of insurance from CHS and the Letter of Credit for Riverland. Clint Gergen of CHS reported on the state of the river and the barge slips. A lot of sediment has been removed from the navigation channel on the Mississippi in order to make the river navigable and at best the river is only passable. Currently full navigation on the Mississippi is not possible and the Minnesota has not been dredged at all.

President Francis pointed out that the state of navigation on the river is another issue that should be called out in any response to the SMMR TMDL study - the impact of sediment in the rivers on the Minnesota economy. If the LMRWD could get more groups together to speak out about the issue sediment in the river and the problems created by the sediment coming from upstream the more effective the arguments are.

**v. Secondary Dredge Site Update**

Administrator Loomis said they haven't had any response from the USACE regarding the request to reevaluate the need for a second dredge placement site. She commented on Xcel Energy's request to fill in the coal ash ponds and her suggestion to the DNR and XCEL that dredge material be used as fill. She said the City of Burnsville is supportive of this idea and they are also supportive of the idea of using only the one dredge placement site at RMP 14.2.

**E. Plan Amendment**

Administrator Loomis requested the Managers to authorize execution of the Task Order #1 from Burns & McDonnell. Managers discussed whether or not this action had been taken at a previous meeting. Administrator Loomis said she would check the minutes. Managers agreed to authorize again in case the Task Order had not been authorized previously.

**A motion was made by Manager Shirk and seconded by Manager Kremer to authorize the plan amendment. VOTE: Ayes 3; Nays 0, Motion carried.**

**F. BWSR Audit Update**

Administrator Loomis reported on action taken to date regarding the PRAP. Administrator Loomis said Burns & McDonnell provided an estimate to comply with the request for information by BWSR under the PRAP at a cost not to exceed \$6,700. She informed the Managers that she authorized Burns & McDonnell to go ahead and begin work on the PRAP.

**7. COMMUNICATIONS**

- A. **Administrator's Report** - No report
- B. **President** - No report
- C. **Commissioners** - No report
- D. **Committees** - No report
- E. **Legal Counsel** - No report
- F. **Engineer** - No report

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
Wednesday, September 17, 2014  
MEETING MINUTES

**8. ADJOURN**

**It was moved and seconded to adjourn at 8:10 PM. Motion carried unanimously.**

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Len Kremer, President

Attest:

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Linda Loomis, Administrator