



Minutes of Regular Meeting
Board of Managers
Wednesday, August 20, 2014
Council Chambers, Chaska City Hall, 6:59 p.m.
Approved September 17, 2014

1. CALL TO ORDER AND ROLL CALL

On Wednesday, August 20, 2014, at 7:00 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.

2. APPROVAL OF THE AGENDA

President Francis introduced this item. President Francis requested adding election of Watershed Officers as an agenda item. Administrator Loomis suggested it be added under new business as 5.B. Annual Meeting.

Manager Francis made a motion to approve the agenda of August 20, 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 July 16, 2014 Regular Meeting and July 22, 2014 Special Meeting

B. Approval of Financial Report

C. Approval of Payment of Invoices

D. Resolution 14-06 Amending Cost Share Grant Agreement between LMRWD and SW Metro Educational Cooperative - Project #1

~~**E. Authorize Terms and Conditions for Professional Services between Burns & McDonnell and LMRWD**~~

~~**F. Adopt Data Access Policy**~~

President Francis introduced the items. Item 4.E. was removed from the consent agenda and will be taken in the order as it is on the agenda.

Manager Kremer questioned the terms and conditions for professional services between Burns & McDonnell and LMRWD. Administrator Loomis said she asked to have the agreement reviewed by the Attorney before the meeting with a recommendation, but did not receive anything. Manager

Kremer removed item 4.F. Administrator Loomis said this item will be tabled until the September 17th meeting.

Manager Shirk said she had some grammar changes. Administrator Loomis asked that the changes be sent to her.

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

A motion was made by Manager Kremer and seconded by Manager Shirk to submit the terms and conditions agreement for engineering services with Burns & McDonnell to John Kolb of Rinke Noonan for review and modification. VOTE: Ayes 3; Nays 0, Motion carried.

5. NEW BUSINESS

A. Presentation on Invasive Carp by Nick Frohnauer of the MN DNR

Nick Frohnauer, Invasive Fish Coordinator for the MN DNR, showed a picture of the silver carp that is now called an invasive carp. The group is made up of four species. Mr. Frohnauer stated the actions are guided by the Invasive Carp Plan from November 2011. There are 20 actions under 4 different categories. He talked about the early detection program with traditional monitoring. Three Biologists are also employed and fishermen have been contracted at certain times of the year. Mr. Frohnauer reported on an isolated case in St. Cloud of a grass carp. The two fish caught this year were females and both had eggs. Manager Shirk asked why they did not spawn. Mr. Frohnauer said for invasive carp there are not enough fish around for fertilization.

Mr. Frohnauer talked about the education and natural spread. He said a risk assessment was done and displayed a map. The DNR recognized closing the upper St. Anthony was a good barrier but required federal legislation. He then showed a graphic of current ongoing projects. Mr. Frohnauer reviewed the control and how to apply commercial fishing.

President Francis clarified carp are not a good eating fish. Mr. Frohnauer said they are trying to develop markets.

President Francis talked about the enzymes and said that would be a mass kill, which would cause odor issues.

Manager Kremer asked if there are any restrictions on fishing. Mr. Frohnauer said if a carp is caught, the DNR is supposed to be called.

B. Annual Meeting

President Francis said the Bylaws require an election every September. He stated he will be stepping down as President in September. Manager Shirk nominated Manager Kremer. President. President Francis noted he has a individual in mind to replace him on the Board.

President Francis suggested having the Bylaws on the meeting agenda for next month as well as the election of the officials. Administrator Loomis said she will send out the bylaws prior to the meeting.

6. PUBLIC HEARING

A. Public Hearing - Adopting 2015 LMRWD Budget and Tax Levies Payable 2015

Managers asked questions about the proposed budget. Administrator Loomis answered questions. Managers asked the Administrator if they must approve the budget at this meeting.

She stated the LMRWD has to adopt the budget every year before September 15th and noted the next meeting is September 17th, after the date the District is required to provide the counties with the levy.

A motion was made by Manager Kremer and seconded by President Francis to continue the public hearing to September 10, 2014 at 5:00 p.m. VOTE: Ayes 3; Nays 0, Motion carried.

Manager Kremer said he had questions about the overall presentation of the budget.

He commented on the \$250,000 being the maximum allowed and asked if they would be assessing \$250,000 and reducing other assessments. He also questioned the increase budgeted for audit fees. Administrator Loomis stated that this amount was based on what was spent for the audit in this year. Managers discussed the cost of the audit and Administrator Loomis stated that because of requirements placed on the District by the State of Minnesota the LMRWD did not have time to compare the cost of audit services when she was hired.

The auditor was also previously keeping the books for the district and therefore they were able to charge less for audit services

President Francis asked if Administrator Loomis was shorted in hours. Administrator Loomis said it depends on whether it is a calendar month or 4 weeks. She stated there is a lot of work to be done. President Francis suggested putting more money in administration and a little more in engineering and legal.

Manager Kremer said there should be other issue we should be lobbying for besides the 9' channel. He said the lobbying should be moved to administration.

Manager Kremer said there should also be money for the implementation of the TMDL with the push of legislators and stakeholders. He suggested then putting the remaining money under engineering.

Manager Shirk asked about the copier. Administrator Loomis said there are 3 years remaining on a 5-year lease and the cost to get out of the lease is \$12,000. Manager Shirk suggested putting \$4,000 in the equipment lease budget and increasing engineering from \$5,000 to \$11,000. She said administration should be \$130,000 and \$20,000 for lobbying.

Manager Kremer referred to the statement of revenues and expenditures. He said he has questions on the seminary fen restoration and asked why there is \$100,000 budgeted in 2014 and nothing in 2015. Administrator Loomis explained how she budgeted for the capital items. She also explained that she added a column for what was spent in 2013 for a comparison.

Manager Kremer asked about Long Meadow Outfall and Overlook Outfall. Administrator Loomis explained that Long Meadow Outfall has been completed, but the city of Bloomington has not yet been reimbursed for the project as it is not in the LMRWD Plan. Overlook Outfall is not in the plan. This project was requested by the city of Bloomington, as the City is not ready to go ahead with the Heritage Hills that is in the Plan. The City would like to have this project considered. Manager Kremer asked if that would be done in 2015. Administrator Loomis said she is not sure how far along the process is.

Manager Kremer asked about the Savage drain tile project. Administrator Loomis said a study was done when the realignment of the Highway 41 Bridge was looked at. She noted this project is more of a placeholder. Manager Kremer asked if the Seminary fen restoration is part of the

plan. Administrator Loomis said she is planning to make sure all these projects are included in the Plan amendment that is in underway.

Administrator Loomis questioned why they have cooperative projects and 509 projects.

President Francis asked that the changes be indicated in red.

Administrator Loomis said she found a resolution for USGS riverbed sediment monitoring in which the LMRWD committed to fund this monitoring at \$18,000 per year and questioned only seeing about \$4,500 in invoices. Manager Kremer said they have been invoiced at least 2 years maybe 3 years. Administrator Loomis asked if \$9,000 is enough or if that should be increased. She said the USGS did get a grant from the LCCMR and there will be a meeting in September with USGS and the Corps of Engineers. Managers discussed this monitoring and determined it is worthwhile to continue to participate. Manager Shirk suggested budgeting \$18,000.

Manager Kremer asked about the 509 plan implementation and noted 140,000 plan for 2015. Administrator Loomis said she will find out what that number is for.

Manager Kremer said his next question is about Dean Lake. Administrator Loomis said the Plan included \$100,000 budgeted for this year and \$100,000 for next year. She noted Scott County is billing the LMRWD for all the work. She said the only bill she has seen so far was for \$12,000 for engineering costs. Manager Kremer said there is an amount the LMRWD will be responsible for this year. Administrator Loomis said all the work was done at the beginning of the year. Manager Kremer questioned why there is no number. Administrator Loomis said it might not have been coded correctly.

Manager Kremer asked about the no projected expenditures for monitoring in 2014. Administrator Loomis said she does not know why no number is reflected, as she provided the number to Carver County. Monitoring costs are a known expenditures since the LMRWD has contacts that money has been committed to. Manager Kremer said public education and outreach and the cost share program are also not in the budget.

Administrator Loomis stated she left \$15,000 for the vegetative analysis and the Managers could choose to use money from this line item to conduct vegetative studies of the fens.

Manager Kremer commented on the proposed levy for the 9 foot channel and the need to resolve the \$247,000 deficit in the capital project fund.

Administrator Loomis noted the overhead costs are the only automatic costs and they can change the budget to reflect that more accurately. This year both the Attorney's time and the Administrator's time are being charged directly to the 9' Channel fund. President Francis noted that this year a lot of time for both the Attorney and the Administrator were dedicated to the 9' Channel because of all the agreements that have been developed.

President Francis said his personal opinion is that the assessment should go back to the benefiting properties. He noted he probably will not be a resident of Minnesota much longer. Manager Kremer said they need to get it done one way or another next year. President Francis suggested having a meeting with the new attorney. Managers discussed when it would be appropriate for the Attorney to come to discuss options for addressing the deficit in the 9' Channel Fund. Administrator Loomis said, she and the LMRWD Engineer have tentatively

scheduled a work session before the September regular meeting to begin the Plan Amendment process. Administrator Loomis clarified she will invite the attorney to attend on September 17th.

Administrator Loomis suggested continuing the public hearing to September 10, 2014.

A motion was made by President Francis and seconded by Manager Kremer to open the public hearing. VOTE: Ayes 3; Nays 0, Motion carried.

A motion was made by Manager Kremer and seconded by President Francis to continue the public hearing to September 10, 2014 at 5:00 p.m.

6. OLD BUSINESS

A. LMRWD Inclinometer readings

Administrator Loomis reminded the Managers that she reported at the last meeting readings were taken in the field and when the data was downloaded back at the office the readings made no sense. Braun Intertech went into the field to take a second set of readings and when the data was downloaded they got the same result as the first time. Braun Intertech and Stanley Group will try to figure out what is happening and why they are getting the results they are. It was reported that based on visual observation they appears to have been no movement. Administrator Loomis noted eventually there will be a report.

B. Seminary Fen/Chaska Ravine

i. Adopt Resolution 14-05

ii. Authorize Joint Powers Agreement

Administrator Loomis pointed out she would like to include language in the JPA to address cost over runs and whose responsibility it is to pay.

Manager Kremer questioned whether the document is complete. He pointed out the last sentence under number 2 in the resolution and mentioned that 3 has nothing in it.

He asked if the \$220,000 grant comes to the LMRWD. Administrator Loomis said half of it have of the agreement has already come to the LMRWD and that is the \$109,000 that is in the budget. Manager Kremer said there is nothing in the financial statement about the grant and questioned where these funds appear in the Financial Audit Report.

Administrator Loomis said it is in the report , but cannot tell off the top of her head where it appears, but she will inform the Managers where it appears. Manager Shirk stated the grant resolution should reference \$220,800.

The Administrator said the documents will be cleaned up and brought back for the September meeting.

C. Dredge Management

i. USACE Right of Entry Agreement

Managers asked about an opinion from an Environmental Law specialist about the liability exposure of the LMRWD. Administrator Loomis said she will talk to Attorney John Kolb about this.

ii. City of Savage Conditional Use Permit

Administrator Loomis said the City of Savage conditional use permit has been resolved. She said there is a meeting tomorrow morning to document the condition of Vernon Avenue and the city talked about videotaping.

iii. Rachel Contracting

Administrative Loomis said Rachel's legal counsel has the agreement and they are just about ready to sign it.

iv. L & S Marine Contract

a. Taylor Luke was in attendance and informed the Managers that he has not received the agreement from the LMRWD Attorney. LS Marine would like to have an agreement. President Francis asked how long the management plan would take if they had the contract. Taylor thought they would be able to have it put together by the next meeting.

b. Port Development Assistance Program

Administrator Loomis said they need to get the operations manual decided on before applying for funds from the port development assistance program. The deadline to apply for funds is September 30, 2014. Possible projects were discussed regarding what the LMRWD would apply for funding to do; erosion control, road improvements and some kind of traffic control for Highway 13 and Vernon Avenue. Manager Kremer suggested applying for funds so we get in place to get funds. Administrator Loomis said she will speak to Attorney Malkerson and inform him that L & S Marine needs a clean copy of the agreement so it can be reviewed and signed.

v. Acceptance of Private Dredge Material

Administrator Loomis said Cargill signed the agreement. An amendment to the agreement has been drafted to include CHS and Riverland and is being circulated for signatures. LMRWD has executed to agreement with Cargill. Preparations of the site will begin once contractors are free from work with the Corps and can begin work.

vi. Secondary Dredge Site – Update

Administrator Loomis said the secondary dredge site is on hold until the USACE is free to discuss options.

D. Plan Amendment

Administrator Loomis reported that she and Della Young met with Steve Christopher of BWSR to discuss the Plan Amendment. Administrator Loomis said a task order was put together with the timeline and scope. Manager Shirk asked about having a meeting at 5:30 prior to the September meeting.

E. BWSR Audit Update

Administrator Loomis explained this has not been a high priority and she has only complied when BWSR has asked for individual items. Manager Kremer asked what they have asked for. The Administrator reported BWSR has a form to be completed that itemizes the Goals of the Plan and what the LRMWD has done to implement the Plan and achieve the goals. Manager Kremer said the Administrator could ask Dell to help out with the Audit. BWSR would like to come speak in October.

F. South Metro Mississippi River

Administrator Loomis commented on the withdraw request for the contested case hearing. Manager Kremer said this is one of the most important tasks for the LMRWD. Manager Kremer directed staff to have the redrafted document reviewed to see if the MPCA has addressed the

issues raised by the LMRWD and to further recommend how the LMRWD should proceed if our issues are not addressed.

A motion was made by Manager Kremer and seconded by Manager Shirk to contact Norman Senjem to review the redraft of the TMDL to ascertain whether the LMRWD concerns have been addressed and to bring a recommendations back to the Managers at a cost not to exceed \$5,000. VOTE: Ayes 3; Nays 0, Motion carried.

7. COMMUNICATIONS

A. Administrator's Report

i. Update on Chanhassen Bluff Failure

No Report

Administrator Loomis reported she has been in contact with John Kolb, who asked if legal counsel should be billed just for hours. President Francis said he would suggest hourly but asked that the bill not be sent to his home.

Administrator Loomis said she would like to take the printer and file cabinet for her use.

Administrator Loomis said she is planning to volunteer at the Children's Water Festival.

Administrator Loomis mentioned that the City of Bloomington is having a festival called Heritage Days on September 20th and has invited the LMRWD to participate.

Administrator Loomis commented on the mail and said she will be getting a Post Office box in Golden Valley.

B. **President** - No Communication

C. **Commissioners** - No Communication

D. **Committees** - No Communication

E. **Legal Counsel** - No Communication

F. **Engineer** – No Communication

8. ADJOURN

It was moved and seconded to adjourn at 9:15 PM. Motion carried unanimously.

Kent Francis, President

Attest:

Linda Loomis, Administrator