



Minutes of Regular Meeting  
Board of Managers  
Wednesday, February 19, 2014  
Council Chambers, Chaska City Hall, 7:00 p.m.  
Approved April 23, 2014

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

On Wednesday, February 19, 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 were Linda Loomis, LMRWD Administrator, Jessica Van Der Werff, Dakota County SWCD, Taylor Luke, L & S Marine, Brent Johnson, Rachel Contracting and Clint Gergen, CHS. Bruce Malkerson, LMRWD Attorney arrived at 8:00 PM.

2. **APPROVAL OF THE AGENDA**

President Francis introduced this item. Administrator Loomis requested the Minutes of the January 15, 2014 Board be removed from the agenda and requested that Item 4. F. Authorize Agreement with the Scott County SWCD for monitoring the inflow to Dean Lake be removed from the consent agenda. Item 4. F. was added to the agenda as Item 5. AA. Managers Kremer and Shirk requested the addition of Item 6. G. Budgets and Billings. Managers Kremer and Shirk requested the minutes of the February 5, 2014 Special Meeting be removed from the consent agenda and added as Item 6. H.

**President Francis made a motion to approve the agenda of February 19, 2014 as amended. The motion was seconded by Manager Shirk. The motion carried unanimously.**

3. **CITIZEN FORUM**

No Citizen Input

4. **CONSENT AGENDA**

President Francis introduced this item. The Consent agenda was amended as discussed in the approval of the agenda.

**A motion was made by President Francis and seconded by Manager Shirk to approve the consent agenda with the minutes from the January 15, 2014 minutes removed, the minutes of the February 5, 2014 Special meeting removed from consent and added as Item 6. H. and Item 4. F. removed from consent and added as Item 5. AA.. The Consent Agenda includes the January Financial Reports, the Payment of Invoices, 2014 Cost Share Incentive and Water**

**Quality Restoration Program, and Corporate Resolution for Wells Fargo Depository and Brokerage. VOTE: Ayes 3; Nays 0, Motion carried.**

**5. NEW BUSINESS**

**A. Presentation Dakota County Fen Monitoring Report by Jessica Van der Werff, Dakota County SWCD**

Ms. Van Der Werff presented a report of the 2013 Fen monitoring conducted by the Dakota County SWCD. Ms. Van Der Werff pointed out that water levels in some of the wells is greatly influenced by rainfall and well levels fluctuate accordingly. Ms. Van Der Werff commented that annual monitoring provides a greater knowledge base in order to determine whether or not and how the fens are impacted.

Monitoring results indicate that the Fort Snelling Fen is doing well, Quarry Island Fen is experiencing declining water levels and Nichols Fen is not showing any definite trends making it difficult to determine what is happening there. Managers expressed concern over the declining water levels in the Quarry Island fen and would like to focus this year on further study of this fen. Manager Kremer asked if data included any data from the DNR when the wells were first installed. Ms. Van Der Werff responded that she looked at the DNR web site and was unable to find much historical information. Manager Kremer asked if a vegetation survey has been done in connection with the declining water levels observed. It was noted that if the vegetation has changed due to the lower water levels the area may no longer be classified as a fen.

Managers thanked Ms. Van Der Werff for the presentation.

**Direction provided to staff to skip monitoring the Dakota County fens in 2014, but to focus on Quarry Island fen by 1.) extending the data set with historical data from the DNR and the LMRWD web site, 2.) determining if and when vegetative surveys were taken and evaluate vegetative survey information, and 3.) provide a scope of service for a vegetative survey this year, in order to try to figure out what is happening in the Quarry Island Fen.**

**AA. Authorize agreement with the Scott County SWCD for monitoring the inflow to Dean Lake**

Paul Nelson from Scott WMO was present to answer question from the Managers. Mr. Nelson reminded the Managers that Melissa Bokman from his staff presented recommendations for this year's tasks per the plan developed to study Dean Lake at the February Board meeting. Mr. Nelson has contacted the Scott County SWCD to add monitoring of Dean Lake to its scope of services to the LMRWD. Mr. Nelson explained the MPCA will be monitoring the outflow from Dean Lake downstream at a station near TH 101. Monitoring proposed this year is in the plan at a cost of \$22,000. This amount supposed monitoring two sites. The cost proposed now is \$11,000 because Scott WMO determined that one site would work. Administrator Loomis added that the cost has been reduced from \$14,000 during the course of the month between the Board meetings due to efficiencies the Scott SWCD were able to come up with.

**A motion was made by Manager Kremer, seconded by Manager Shirk and approved unanimously to authorize to entering into an agreement with the Scott County SWCD for monitoring the inflow of Dean Lake not to exceed to the proposed cost estimate of \$11,425 and subject to the approval of the agreement as to form by the Scott County District Attorney.**

**B. MN Statewide Ports and Waterways Plan comment letter**

**A motion was made by Manager Kremer, seconded by Manager Shirk and carried unanimously to approve of the letter drafted commenting on the MN Statewide Ports and Waterways Plan and authorize signature of the President.**

**C. Request for additional monitoring wells within Seminary Fen SNA**

The MN DNR has requested participation by the LMRWD to add additional wells in the Seminary Fen SNA to monitor the fen. Manager Kremer asked if the DNR has looked at LMRWD data. Administrator Loomis answered she did not know if they have or not. Managers requested a presentation of monitoring data collected by Carver County on behalf of the LMRWD.

**Moved by President Francis, and seconded by Manager Shirk to authorize preparation of a contract to participate in additional monitoring within the Seminary Fen SNA at a cost not to exceed \$3,600. Motion carried unanimously**

**D. Sponsorship of Children's Water Festival**

Managers discussed this as a way of providing an opportunity for education by the District. **Manager Shirk made a motion to sponsor 4 classes of students at the CWF for an amount for \$1400. The motion was seconded by Manager Kremer and motion carried unanimously**

**6. OLD BUSINESS**

**A. Resolution in support of MN Valley State Trail**

**Manager Kremer made a motion to support funding for the MN Valley State Trail segment from the US Fish and Wildlife Center to the Bloomington Ferry Bridge. Seconded by Shirk and carried unanimously.**

**B. Update on Seminary Fen Grant Request**

For information only - Administrator Loomis reported BWSR did not fund the additional grant request. She has met with Bill Monk and John Smyth of Stantec and spoken to Shawn Tracy of HDR. Stantec was directed to review the proposal to determine what could be done to fit the funds allocated to this project. This project will be on the next agenda.

**C. 2012 Annual Report**

Administrator Loomis discovered a report on the District Laptop entitled 2012 Annual Report and asked the Managers to review it to see if it was acceptable. The Managers informed the Administrator that the report is deficient and requested the Administrator to continue to work on the report and submit a 2012-2013 report

**D. Dredge Management Update (attorney Malkerson arrived)**

- i. USACE Right of Entry Agreement (ROE) was the first item discussed, Attorney Malkerson discussed requirements USACE placed in its agreement. Discussed including outside management group in discussion with USACE.

**Manager Kremer made a motion to authorize staff to consult with L & S Marine to review proposed ROE agreement with USACE and then meet with USACE to negotiate a final ROE agreement before the March 19, 2014 Board of Manager meeting. Seconded by President Francis.**

- ii. Managers discussed accepting private dredge material upon RMP 14.2. Mr. Taylor Luke of L & S Marine testified storage is needed for 25,000 cubic yards per year on average for material from private slip dredging. Mr. Luke indicated about 5 acres would be needed to accommodate private dredge material done in the spring. Material is removed from the site in the fall. If material is not ready to be removed it will sit until the following spring when it must be removed to accommodate new material. Managers discussed with Mr. Luke comingling of material from 9' Channel and private slip. It was determined if the LMRWD accepted private dredge material on the site it would be segregated from material from the 9' Channel. Mr. Luke reported this is standard practice by other local sponsors in the area. Mr. Luke also reported only allow Tier 1 material would be allowed onto the site. Attorney Malkerson asked for clarification regarding the intent of the Managers to accept private dredge material. The Managers agreed they are willing to accept private material if appropriate agreements can be put in place.

**No decision was made pending finalization of the ROE with the USACE.**

- iii. Managers discussed a contract with L & S Marine to manage RMP 14.2 site on behalf of the LMRWD. Attorney Malkerson acknowledged a possible conflict with L & S managing site on behalf of the LMRWD and contracting with private parties to dredge barge slips and place material on the RMP 14.2. Site needs work in order to accommodate removal of stockpile. Mr. Luke reported L & S Marine would like to be involved in determining how site will be improved, so site will be sustainable once stockpile is removed. Managers asked if ROE with the USACE needs to be in place before material leaves site. Attorney Malkerson advised material can be removed without an agreement with the USACE in place. Mr. Luke will prepare a site plan for showing improvements. Mr. Luke indicated
- iv. Offer from Rachel Contracting to remove dredged material stockpile. Brent Johnson from Rachel Contracting answered questions from Managers regarding proposal to reuse dredged material. Managers discussed the need of the LRMWD to advertise availability of material. Attorney Malkerson will research whether the LMRWD is required to seek bids for material before entering into an agreement with Rachel.

**President Francis made a motion to authorize Rachel to enter LMRWD site to conduct testing subject to a hold harmless agreement and providing the test results to the LMRWD. Manager Kremer seconded the motion, which carried unanimously.**

**President Francis moved to authorize Rachel to draft an agreement, if test result indicate material is acceptable for Rachel Contracting's needs, to acquire material and bring contract to March 19, 2014 Board of Manager meeting. Motion seconded by Shirk and carried unanimously.**

- v. Administrator Loomis updated the Managers about development of the MAC parcel. Ron Harnack has investigated the possibility of using State Highway

wetland credits to mitigate wetlands on the MAC parcel. State wetland credits are not available for LMRWD to use - those credits are only for road projects. Managers discussed pursuing legislation allowing wetland credits be made available to waterway projects. Managers asked about timing of HDR report of cost estimate. Managers discussed the amount of funding to be requested from the State to develop the MAC parcel. Managers directed that the amount estimated in the report prepared by HDR would be the amount of funding requested.

**President Francis made a motion to draft language and identify an author for legislative approval to allow LMRWD to use wetland credits and exempt the responsible LGU from providing from its allocation. Manager Shirk seconded the motion, which carried unanimously.**

Administrator Loomis reported she has been in contact with USAF and informed them of LMRWD plan to use MAC site. Manager Kremer and Administrator Loomis met with DNR about LMRWD plans. DNR identified another site that may be eligible to use under Cedar Avenue bridge. Managers discussed considering this as an alternate possibility. Filling Xcel Energy cooling ponds with dredged material was discussed. Plans will be further developed if money from the State is forthcoming.

**E. Update on RFP process**

Administrator Loomis reported the request for publication of RFPs for Engineering and Legal services has been submitted to the State Register and will be published for two weeks beginning February 24, 2014.

**F. Report from February 13 TAC Meeting**

Administrator Loomis reported sixteen people attended the TAC meeting. A report of the results of the meeting will be presented to Managers. The Administrator reported attendees stated agencies they represent have directed them to not work with the LMRWD. The Administrator has spoken with BWSR to inquire what they see as the next steps in this process. BWSR suggested the LMRWD provide better clarity of implementation plans, schedule more regular meetings, and reinvigorate the CAC. Administrator Loomis suggested the TAC should meet quarterly and will arrange for the next meeting.

**G. Budgets and Billing**

Managers directed the Administrator to bill the LMRWD by department. So time spent on Dredge Management will be billed to the 9' Channel, etc.. Managers requested they receive copies of bills. Discussion was that bills should be compiled and sent with the monthly financial reports. Managers directed staff to not sign agreements with consultants LMRWD should have a general service agreement with HDR and work on a work order basis with a cost.

Manager Shirk had questions about funding for the Long Meadow Outfall project in the City of Bloomington. Administrator Loomis informed Manager Shirk that it cannot be funded until the project is put in the plan. The LMRWD is in the process of

amending the plan per the condition of approval of the Plan by BWSR and the Long Meadow Outfall Project will be included in the Plan Amendment.

Manager Shirk wanted to make sure Administrator Schwalbe's phone bill was paid. Administrator Loomis informed her that payment has been sent.

Manager Shirk asked a question about closing the office. Administrator Loomis informed her that it is a work in progress. The LMRWD needs to adopt a record retention policy. All the files need to be cataloged and filed. Managers discussed possibly vacating a portion of the office space. The office is being rented on a month by month basis.

**H. Minutes of February 5, 2014 Special Meeting.**

Minutes of the February 5, 2014 Special must be amended to add the language that the price of preparing a cost estimate was to not exceed \$5,000.

**7. COMMUNICATIONS**

- A. Administrator's Report** - Administrator Loomis informed the Managers a letter has been sent to Terry Schwalbe explaining the payment to him for vacation and sick leave.

Administrator Loomis informed the Managers the District received a Water Management Plan from the City of Carver. The City sent the plan to the Watershed in August requesting comments. No comments were received from the LMRWD so the City approved the Plan. The Managers directed the Administrator to obtain quotes from Momentum Environmental LLC and Burns & McDonnell to review the Carver Plan on behalf of the Watershed

Administrator Loomis informed the Managers the District received an inquiry from Fredrickson & Byron regarding a license agreement between a property owner and the District about an encroachment upon a parcel reserved for use by the District. Administrator Loomis requested the Managers to direct staff to resolve the issue. The Managers directed the attorney to work with Fredrickson & Byron to resolve the issue.

- B. Chair** - No Communication  
**C. Commissioners** - No Communication  
**D. Committees** - No Communication  
**E. Legal Counsel** - No Communication

**7. ADJOURNMENT**

**It was moved and seconded to adjourn at 9:35 PM Motion carried unanimously.**

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Kent Francis, President

Attest:

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
Wednesday, February 19, 2014  
MEETING MINUTES

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Linda Loomis, Administrator