



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Minutes of Regular Meeting

Board of Managers

Wednesday, January 19, 2022

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

Approved _____

1. CALL TO ORDER AND ROLL CALL

On Wednesday, January 19, 2022, 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 roll call to be taken. The following Managers were present: Manager Laura Amundson, President Jesse Hartmann, and Manager Patricia Mraz. Manager Dave Raby joined virtually from Tucson, Arizona. Manager Lauren Salvato was absent. In addition, the following joined the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; John Kolb, Rinke Noonan, LMRWD Legal Counsel; and Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Consultant. Katy Thompson, Young Environmental Consulting Group, LLC; Lisa Frenette, Frenette Legislative Advisors, LMRWD Legislative Liaison; Lindsey Albright, Dakota Soil & Water Conservation District; Steve Pany, Manager for Prior Lake Spring Lake Watershed District; and Representative Paul Torkelson joined virtually.

2. APPROVAL OF THE AGENDA

Administrator Loomis asked to remove the December 15, 2021, meeting minutes and the December 2021 financial reports from the agenda as she had not received the meeting minutes or the financial information.

Manager Raby made a motion to approve the agenda with the two items noted above removed. The motion was seconded by President Hartmann.

Manager Amundson pointed out that the executive summary for the Lower Minnesota River One Watershed One Plan process recommended no action and she said the Board should appoint a representative to the policy committee.

Manager Raby accepted Manager Amundson's comment as a friendly amendment. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None.

3. CITIZEN FORUM

Administrator Loomis reported that she had not received communication from anyone that wished to address the Board.

4. CONSENT AGENDA

President Hartmann introduced the item.

- A. **Approve Minutes November 17, 2021, and ~~December 15, 2021~~, Regular Meeting**
- B. **Receive and file November 2021 and ~~December 2021~~ Financial reports – (December Financial Reports were not available at the time the meeting packet was prepared.)**
- C. **Approval of Invoices for payment**
 - i. **Danial Hron – November 2021 Office Rent**
 - ii. **Frenette Legislative Advisors – October 2021 Legislative Services**
 - iii. **US Bank Equipment Finance – Payment on copier lease**
 - iv. **Naiad Consulting – May 2021 Administrative Services and expenses**
 - v. **TimeSaver Off-Site Secretarial Services – preparation of September meeting minutes**
 - vi. **Young Environmental Consulting Services – September 2021 services**
- D. **Receive and file December 2021 Citizens Advisory Committee meeting minutes**
- E. **Designation of 2022 Official newspaper**
- F. **Designation of Data Practices Compliance Official**
- G. **Designation of official depositories**
- H. **Authorize solicitation for proposals for legal, technical, and education and outreach services**
- I. **Authorize payment to City of Shakopee for PLOC Realignment/Wetland Restoration Project**
- J. **Authorize execution of Joint Powers Agreement with Dakota County for monitoring services**

Administrator Loomis said staff had completed its review of the documentation provided by the City of Shakopee for the PLOC project and recommends reimbursement to the City. She also noted the payment would not be sent until the elink reporting to the Board of Water & Soil Resources was complete.

President Hartmann made a motion to approve the Consent Agenda as amended. The motion was seconded by Manager Mraz. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None.

5. SPECIAL AGENDA ITEMS

A. Discussion with Representative Paul Torkelson

Administrator Loomis provided 5 discussion topics from the items in the Executive Summary that the Board wanted to present to Representative Torkelson. The Board agreed to just go through the list one by one.

i. Combining watershed districts and soil & water conservation districts

Administrator Loomis noted this idea is something the Board is not in favor of and provided the reasoning for that position. Representative Torkelson stated this is far from happening and this is more of a topic of conversation about how the State manages its water than something that requires action. He thinks the State should always be looking to manage water and resource more effectively.

There was discussion about raising the administrative levy limit for Watershed Districts and that the levy limit doesn't impact the LMRWD.

Representative Torkelson asked if the LMRWD had any further comments regarding the structure of water management. Administrator Loomis said that there is concern in the Metro Area with the number of water management plans that are required by the state.

Each Watershed District is required to have a plan, municipalities are required to have plans and many counties have plans. These plans don't always have the same goals and priorities. Consolidating the plans would simplify water resource management greatly.

ii. **Water Storage Initiative passed by legislation in 2021**

Administrator Loomis noted the board doesn't feel the \$2M allotted is enough to cover the needs and feel there has been plenty of studies and now it's time to implement the findings of those studies, rather than spend more money and time on new studies and reviewing and recreating new plan.

Representative Torkelson stated this is a topic that sounds easy to deal with on the surface but in reality, it is much more complicated and challenging. He thinks that water storage should be a part of every project that is considered moving forward.

Attorney Kolb noted that the LMRWD receives requests from others to support challenges to drainage projects and that many of the existing drainage projects are aging and deteriorating. He noted that financing improvements to agricultural drainage systems falls on the backs of the local taxpayers and that agriculture supports the state and therefore the state should share in the cost of updating and improving agriculture drainage systems.

iii. **Use of the funds from the Clean Water Legacy (CWF) to build capacity**

Administrator Loomis stated that this is an issue that MAWD has taken up and that the LMRWD would support, even though the LMRWD is no longer a member of MAWD. CWF should be used to implement projects that improve water quality not to increase capacity at state agencies or other levels of government.

iv. **MAWD signing on to support federal legislation – the Mississippi River Restoration and Resilience Initiative**

Administrator Loomis provided an overview of this item.

Representative Torkelson stated he is not aware of any such initiatives, but he recalls something similar coming up in the past and noted it was hard to get many people on board. He said that there are differences in how the Mississippi is managed vs. how the Minnesota River is managed. He noted that the Red River Basin has been successful working together to manage water.

Lisa Frenette asked Representative Torkelson why he thought it would be challenging. He noted that the previous effort to organize the Minnesota River basin with the Minnesota River Basin Commission, and the difficulties that board experienced. He said the reasons the MN River Basin Commission failed are still there.

v. **Projects with partnering cities overview**

Administrator Loomis provided Representative Torkelson with some projects within the LMRWD that are not projects of the LMRWD, but that the LMRWD supports.

Representative Torkelson stated those projects sound like bonding projects, and they will take some time and they will need support. He isn't sure how much if any federal dollars that are coming are going to be potential for using those funds for these types of projects.

The Board thanked Representative Torkelson for meeting with the Board.

6. NEW BUSINESS/PRESENTATIONS

There was no new business

7. OLD BUSINESS

A. Lower Minnesota River East One Watershed One Plan

Administrator Loomis stated they should appoint a delegate to be on the Policy Committee from the Watershed District. The Committee did set a regular meeting time for future meetings.

The Board discussed whether the LMRWD should be a part of this process and if they choose to be a part, who should represent the LMRWD. Manager Mraz noted the regular meetings conflict with her teaching schedule. Attorney Kolb laid out pros and cons of becoming a part of the process and options for the board to consider for representation.

Managers discussed who would be available to represent the LMRWD. Manager Raby asked if there is someone on the policy committee who could represent the LMRWD as well as the organization that appointed them to the committee. Attorney Kolb said the LMRWD could approach an entity that it already has a working relationship with. Administrator Loomis noted her relationships are with staff not the policy makers. Manager Amundson noted she is generally available. She could attend the March meeting, but not the February meeting.

Attorney Kolb noted there is no penalty for not attending the meetings so someone could be appointed to the policy committee and attend when they can attend.

Manager Mraz asked what exactly the Board is being asked to consider. Administrator Loomis said the Board should consider whether to participate in the planning process and if so, who will represent the LMRWD.

Della Schall Young recommended that the LMRWD have a seat at the table. It provides the LMRWD with an opportunity to get its issues on the table and incorporated into the plan. Administrator Loomis noted the Technical Advisory Group for the Lower Minnesota River West is struggling with many of the same issues the LMRWD has.

Manager Raby agrees with staff and his preference is to have a representative from the LMRWD on the committee, he only asked about someone from another entity representing the LMRWD because it didn't seem like there wasn't a Board member available to participate.

Manager Mraz made a motion to appoint Manager Amundson to represent the LMRWD on the Lower MN River East 1W1P Policy Committee. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None

Attorney Kolb said it would be appropriate for the Board to authorize execution of the planning documents.

President Hartmann made a motion to execute the Planning Agreement (MOA). Manager Mraz seconded the motion. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None

B. Audit and Financial Accounting Services Proposals

Administrator Loomis updated the Board that agreements with the Auditor and Financial Services are complete. She advised the Board that the LMRWD will need to find a depository for LMRWD funds, and the Board will need to approve that.

President Hartmann questioned changing banks. Administrator Loomis explained that currently LMRWD funds are co-mingled with the county and claims owed by the LMRWD are paid using the county's system. She explained options for the LMRWD moving forward.

C. Scott County LIDAR Funding Request

Administrator Loomis reported that she has found that other LMRWD counties will not be asking for funds for this project and doesn't feel it is equitable to pay for the project in one county and not others. Staff is therefore recommending that the LMRWD not contribute to Scott County for this project. It will not appear on future agendas.

D. Burnsville Willow Creek Ravine Stabilization

No new information to report since last update.

E. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail

No new information to report since last update.

F. City of Carver Levee

No new information to report since last update.

G. Dredge Management

i. Vernon Avenue Dredge Material Management site

No new information to report other than what was reported in the Executive Summary.

ii. Private Dredge Material Placement

No new information to report other than what was reported in the Executive Summary.

H. Watershed Management Plan

Administrator Loomis said staff is still working on amending the rules. Della Schall Young reported that Katy Thompson and Attorney Kolb have been working through the amendments to the rules. Staff is planning to be able to provide the amended rules to the Board at the February meeting.

I. 2022 Legislative Action

Administrator Loomis reported that the Minnesota Center for Environmental Advocacy has picked up lobbying for the limited liability legislation for salt applicators and property owners.

J. Education and Outreach Plan

Administrator Loomis explained that the information sent to the Board on this topic was for their information. Ms. Schall Young asked if the Board received an explanation of what "impressions" means with respect to Instagram. President Hartmann indicated that he did receive the information.

K. LMRWD Projects

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

i. Area #3 Eden Prairie

Administrator Loomis explained that the storm water pond that is interfering with the downstream progression of the river bend in Area #3 was required by the MPCA not as the result of a lawsuit, but rather was an enforcement action. The LMRWD and the City of Eden Prairie have both had discussion with the MPCA about the efficacy of the pond and the impact it is having on Area #3. The MPCA has indicated that they want to be involved in the discussion and are amenable to either relocation of the pond or alternative means to treat the stormwater that enters the pond.

ii. Spring Creek Update

Ms. Schall-Young provided an overview on this item and information on each proposed recommendation presented.

Manager Raby stated he would like to see more information and data before he would feel comfortable approving all the recommendations proposed. He stated he isn't convinced the property owner or City shouldn't be helping with some of the costs for these projects.

Manager Raby made a motion for staff to move ahead with items 1, 2 & 7 of the recommendation in the Staff memo.

Manager Mraz had several questions about the recommendations. She wanted to know if the property owner has exhausted all other options for seeking funding for these projects.

Ms. Schall-Young stated the owner is reaching out to the Board as a last resort after looking at all other options for help. She noted the owners have been dealing with these issues for a long time and stated Administrator Loomis can speak to that more since she has been the one taking the owners calls since the issues were brought forward.

Administrator Loomis provided some background and context regarding the frequent contact she has had with the owner, noting she believes she first talked to her in 2014 about the issues on her property. She confirmed that she has been working with the owner for a remedy to the situation for years, the City has been less than helpful, and the owner is reaching out for help as a last resort. She also noted that the property owner has not taken any initiative to make improvements on her own, even after the plans drawn up by the Carver SWCD were shared with her.

Managers Amundson said this is a project with a lot of gray areas as far as jurisdiction. They Board discussed the obligations of the City and the City's policy regarding projects on private property.

The Board discussed the role of the LMRWD in addressing this project.

President Hartmann asked what actions the Board needs to take. Administrator Loomis pointed out that Manager Raby made a motion.

Manager Mraz stated she feels they should approve all items tonight due to the amount of time the property owner has been trying to resolve these issues and considering they are asking as a last resort because they can't get funding elsewhere.

Manager Raby wants more information before he would authorize moving forward with the more than Items 1, 2 & 7. Manager Amundson concurred. President Hartmann called for a role call vote.

The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, and Raby; the following voted against: None. Manager Mraz abstained.

L. Project/Plan Reviews

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

i. I 35W Trail Realignment (LMRWD No. 2021-035)

Administrator Loomis presented the project and stated staff is recommending conditional approval. Ms. Schall Young said if the Board had any questions, Katy Thompson from Young Environmental was present to answer questions.

Manager Amundson made a motion to conditionally approve a permit for I 35W Trail Realignment (LMRWD No. 2021-035), subject to receipt of a copy of the NPDES permit, contact information of the contractor and the name and contact information of the

person(s) responsible for inspection and maintenance of erosion and sediment control measures. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None.

ii. Cliff Road Ramps (LMRWD No. 2021-057)

Administrator Loomis presented the project and said staff is recommending approval. Managers indicated that did not have any questions.

Manager Amundson made a motion to conditionally approve a permit for Cliff Road Ramps (LMRWD No. 2021-057), subject to receipt of a copy of the NPDES permit, contact information of the contractor and the name and contact information of the person(s) responsible for inspection and maintenance of erosion and sediment control measures. The motion was seconded by President Hartmann. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None

iii. MAC 2022 Perimeter Gate Security Improvements (LMRWD No. 2021-058)

Administrator Loomis noted this item is to be constructed at MSP airport. She stated staff is recommending conditional approval.

President Hartmann asked if this is an expansion of the parking. Ms. Thompson stated that this is an area that is being used for parking and that it is now being paved.

President Hartmann made a motion to conditionally approve a permit for MAC 2022 Perimeter Gate Security Improvements (LMRWD No. 2021-058), subject to receipt of a copy of the NPDES permit, contact information of the contractor and the name and contact information of the person(s) responsible for inspection and maintenance of erosion and sediment control measures. The motion was seconded by Manager Mraz. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None

K. MPCA Soil Reference Values - no change since last update

9. COMMUNICATIONS

- A. **Administrator Report:** Administrator Loomis asked if the Board has any question regarding what was in the Administrator's report. There were not questions.
- B. **President:** No report
- C. **Managers:** No report
- D. **Committees:** No report
- E. **Legal Counsel:** No report
- F. **Engineer:** No report

10. ADJOURN

At 9:02 PM, President Hartmann made a motion to adjourn the meeting. Manager Mraz seconded the motion. Upon a vote being taken the following voted in favor of the motion: Amundson, Hartmann, Mraz, and Raby; the following voted against: None.

The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, February 16, 2022, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.

LOWER MINNESOTA RIVER WATERSHED DISTRICT
BOARD OF MANAGERS
WEDNESDAY, January 19, 2022
MEETING MINUTES

Attest:

Lauren Manager Salvato, Secretary

Linda Administrator Loomis, Administrator