



Minutes of Regular Meeting  
Board of Managers  
Tuesday, July 16, 2014  
Council Chambers, Chaska City Hall, 7:01 p.m.  
Approved August 20, 2014

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

On Wednesday, July 16, 2014, at 7:11 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: Len Kremer, and Yvonne Shirk. Also present was Linda Loomis, LMRWD Administrator, Clint Gergen & Greg Oberle, CHS; Taylor Luke, L & S Marine; Bill Monk City of Chaska; and John Smyth, Stantec.

**2. APPROVAL OF THE AGENDA**

President Francis asked about the preliminary budget. Administrator Loomis said it is under Old Business Item G.

**Manager Kremer made a motion to approve the agenda of July 16, 2014. The motion was seconded by Manager Shirk. The motion carried unanimously.**

**3. CITIZEN FORUM**

President Francis asked for attendees to introduce themselves. Clint Gergen with CHS, Greg Oberle from CHS, Bill Monk from the City of Chaska, and John Smyth from Stantec introduced themselves.

**4. CONSENT AGENDA**

~~A. Approval of Minutes June 16, 2014~~

**B. Approval of Financial Report**

**C. Approval of Payment of Invoices**

**A motion was made by Manager Kremer and seconded by Manager Shirk to approve the Consent Agenda with the minutes of the June 16, 2014 meeting removed. VOTE: Ayes 3; Nays 0, Motion carried.**

**A. Approval of Minutes June 16, 2014**

Manager Kremer referred to item 5.D. and said the last sentence is not a complete sentence. Administrator Loomis said she will review the recording of the meeting and amend the minutes to reflect the recording.

Manager Kremer recommended deleting the following sentence in 6.C.ii: "The Managers questioned the approval for the City Council meeting."

**A motion was made by Manager Kremer and seconded by President Francis to approve the June 16, 2014 meeting minutes with the corrections. VOTE: Ayes 3; Nays 0, Motion carried.**

President Francis suggested having the volunteer double check the minutes to free up time for Administrator Loomis. Administrator Loomis said that would be hard if she does not attend the meetings.

## 5. NEW BUSINESS

### A. City of Carver request for participation in riverbank protection/restoration

Administrator Loomis said this is an information piece for the managers. Before the last high water event Administrator Loomis received a call from the City of Carver about losing riverbank so they asked if the watershed would be interested in participating with restoration.

Administrator Loomis said there will be more information coming. No action is required unless the watershed does not want to participate in the project.

Manager Kremer commented on the work done in participation with the City of Eden Prairie in which the river was widening significantly and said they need to have some discussion on how to treat those issues. President Francis inquired as to whether or not bank stabilization is discussed in the plan.

Manager Kremer noted slope stability monitors were installed. Managers decided to have a discussion about the LMRWD philosophy toward bank protection/restoration at some point in the future.

## 6. OLD BUSINESS

### A. LMRWD Inclinometer readings

Administrator Loomis said she spoke with Bill Holman who said data had been collected in the field and when the technicians download the data back at the office it did not make any sense. The technicians are scheduled to go back into the field to collect data a second time and there will be no charge for the second visit.

### B. Seminary Fen/Chaska Ravine

#### i. Authorize Joint Powers Agreement

Administrator Loomis introduced Bill Monk from the City of Chaska and John Smyth from Stantec. Administrator Loomis noted when the feasibility study was done, it exceeded what they expected so there was not enough to fund the project and revisions were made. She stated BWSR approved the revised project.

She said she the joint powers agreement is not ready for review. The next step is to get the agreement signed and then the City of Chaska will put it out for bid. Bill Monk said the City of Chaska will take the lead on the project. Administrator Loomis said with the revisions made to the project there are enough funds available to make the project work.

Manager Shirk asked about the fen restoration. Bill Monk explained this is part two of a two part project that was begun 5 years ago. Mr. Monk explained the modified project is a

very viable project and there is a very distinct possibility that the DNR may be interested in participating in this project.

Administrator Loomis stated the joint powers agreement will be an action item at the August meeting. Manager Kremer asked if the Joint Powers Agreement is appropriate for the modified project.

ii. **Met Council Seminary Fen Management Plan**

Administrator Loomis contacted Lanya Ross of the Met Council to ask about the status of the Fen Management Plan. Lanya's response is that there is not a Management Plan just a draft Fen Plan, which was included in the packets. Manager Kremer said it is hard to figure out what the plan is. Bill Monk said he has been with the group and the fen is slanted towards the ground water but he is not sure what kind of plan will come out of this. The original action was to look at ground water pumping. Bill Monk said it will be a while before there is a management plan. Administrator Loomis noted the plan is only for the scientific and nature area.

Administrator Loomis said she found aerial photos of the ravine over time per Manager Kremer's request and the photos are included in the packets. One can see from the aerial pictures where the bluff has been sloughing into the fen for a long time. Manager Kremer noted one can see change in the vegetation in the fen where the ravine has eroded into the fen. The City of Chaska did a restoration on part of the fen where it had previously been farmed and drain tiled.

**C. Dredge Management**

i. **USACE Right of Entry Agreement**

Administrator Loomis said while speaking with the Pollution Control Agency about the private dredge material issue they also discussed liability. Administrator Loomis felt as long as the material is level one the agency doesn't really have any issues with material being placed on the LMRWD RMP 14.2 site.

Administrator Loomis reported that the LMRWD has not obtained a legal opinion regarding the District's liability with reuse of dredge material. Manager Shirk said she would prefer to have an opinion. Administrator Loomis said she will continue to follow up. She stated the annual environmental insurance premium is \$29,237 with a \$10,000 deductible and with a deductible of \$25,000 the premium would be \$25,777. President Francis asked who was underwriting it. Administrator Loomis said she doesn't know. Managers discussed how to proceed: Wait for an opinion from an attorney then, if the risk to the LMRWD is high then get the insurance coverage, if the risk is low then perhaps the LMRWD should not pay to obtain coverage; or don't wait for an opinion and get insurance coverage. President Francis explained the insurance attorney will classify the risk as high or low. He stated in his opinion, this is fairly low risk.

The Managers agreed on wanting a report from an Environmental Law specialist. President Francis said he doesn't think the District's risk warrants umbrella coverage.

**A motion was made by President Francis and seconded by Manager Shirk to retain the general liability line and the commercial property line and the errors and omission line.**

**VOTE: Ayes 3; Nays 0, Motion carried.**

ii. **City of Savage Conditional Use Permit**

Administrator Loomis explained the City of Savage approved the request to amend the Conditional Use Permit on July 7th, but added an additional condition: the LMRWD will be required to sweep TH 13 upon request by the City. Administrator Loomis stated the City Council's number one concern was about the number of trucks coming in and out of the site.

Administrator Loomis explained she sent a letter to the City of Savage explaining LMRWD intentions to place private dredge material on the 14.2 site with a site map showing where the private dredge material would be stored. Once all parties approve the license agreement, it will also be sent to the City of Savage. Administrator Loomis said they also need to leave Vernon Avenue in the same condition as it is today and the City and the LMRWD will meet on site to document the condition in order to establish a baseline.

**iii. Rachel Contracting**

Administrator Loomis said Attorney Malkerson is working on the agreement with Brent Johnson from Rachel. Administrator Loomis said the agreement currently is with Attorney Malkerson.

**iv. LS Marine Contract**

**a. Port Development Assistance Program**

Administrator Loomis said they are waiting for the agreement to be drafted and executed.

Administrator Loomis reported she has spoken with Patrick Phenow at MnDOT about applying for a grant under the Port Development Assistance Program (PDAP) and was told the notice soliciting request under the program was posted in the State Register. She explained a plan is needed for the application process. Administrator Loomis noted if there is private dredge material, berms must be built and that may be a good time to address the erosion. Administrator Loomis stated they will apply for whatever is needed to prepare and maintain the site. Any grant received would need to be matched by the LMRWD.

Managers discussed the lengthy process for documents drafted and ready for execution. Taylor Luke said it is nice to see the progress being made but they need to get it going. Managers discussed the status and board approval of each of the agreements.

**Motion made by Manager Kremer seconded by Manager Shirk to direct Administrator Loomis to contact Attorney Malkerson to inform him the Managers have asked both contractors to begin moving material on July 23, 2014 with or without agreements in place. Motion carried unanimously.**

**v. Acceptance of Private Dredge Material**

Manager Shirk asked how soon the private slip owners need to start dredging. Taylor Luke said normally they would have done it by now.

Administrator Loomis reported on her conversation with the MPCA. She reported on the conditions the MPCA would require for placement of private dredge material on the LMRWD site. The MPCA has not yet made a decision about amending the permit to place private material on RMP 14.2., so the decision to place private dredge material on the LMRWD site is waiting for a final decision from the MPCA.

President Francis said when he has had business dealings with the MPCA you have to go down to the office. He clarified once they get a verbal approval from the MPCA, the contracts can be executed. He asked about also giving the date of July 23, 2014 to get this done. Manager Kremer said the other option is to ask John Kolb to review the agreement between Cargill and the District. The Managers talked about the hold up. Administrator Loomis said she will talk to Bruce.

Administrator Loomis reported on efforts to notify the USACE of plans to place private dredge material on RPM 14.2

Administrator Loomis reviewed the terms of the license agreement the LMRWD has discussed with Cargill with the Managers.

Managers discussed whether or not they had agreed to authorize the license agreement with the private barge slip owners. Administrator Loomis reviewed the June meeting minutes and reported the Managers had previously authorized execution of the license agreements.

Manager Kremer commented on the importance to have the attorney at the meeting. President Francis said they just need yes or no answers.

The Managers directed staff to continue to work with Cargill to develop an agreement to be used between the LMRWD and parties wishing to place dredge material on the site.

Manager Kremer suggested setting up a special meeting with Attorney Malkerson to discuss unresolved issues. Manager Kremer suggested the Cargill Attorney and others call Bruce to inquire about the status of the agreements. President Francis said to have John Kolb attend as well. The Managers discussed a date to have a special meeting and decided on July 22, 2014 contingent upon Bruce's availability. Manager Shirk noted she could not make the 22<sup>nd</sup>. Manager Kremer asked if that is enough notice. Administrator Loomis said the State Law requires notice 3 days before the date of the meeting.

**vi. Secondary Dredge Site - Update**

Discussion of the private barge slip dredge material spilled over into the agenda item and no discussion occurred with respect to this agenda item.

**D. Report from TAC Meeting**

Administrator Loomis reported on the TAC meeting that occurred in June. She reported that Manager Shirk attended the meeting. The meeting was poorly attended because of a heavy rainfall event that occurred the night before. Many of the TAC members were dealing with public works emergencies in their respective cities.

The TAC developed a decision tree which cities could use to determine if a project they had would fit LMRWD Plan criteria.

Manager Kremer asked the Administrator if she ran the Carver River Bank restoration/stabilization project through the decision tree. Administrator Loomis said she did not.

**E. BWSR Audit Update**

Administrator Loomis said she has not had time to sit down and talk about the goals of the plan. She noted a survey monkey was sent out To all Managers.

**F. 2015 LMRWD Budget**

Administrator Loomis stated the budget is a work in progress. She referred to the proposed budget and said the third page after the cover page is the administration budget. She commented on having a hearing before the levy is set. She explained the budget process but would like to check with an attorney to make sure she understands the legal requirements of the budget process. Manager Kremer said the levy can be changed as long as the levy goes down. Administrator Loomis said she will request placement of hearing notice in the ECM newspapers.

Administrator Loomis said she received the database to determine the levies from the Minnesota Department of Revenue and she also received the tax base used by BWSR to determine the amount that can be levied for the purpose of administration.

Managers discussed how the district budgets and operates its fund balance.

The Managers talked about the truth in taxation law.

**i. CIP Discussion**

Administrator Loomis provided an example table that could be used to track Capital projects.

Administrator Loomis pointed out that the LMRWD budgeted \$100,000 for the Long Meadow Outfall Project in 2013 and then an additional \$100,000 in 2014. Manager Kremer said he disagrees. He commented on the audits and said that should tell what has been accumulated. She said the estimated fund balance was \$829,000.

Manager Kremer said that ten years ago the fund balance was \$800,000.

Administrator Loomis referred to the capital improvement projects identified in the 509 Plan. She said the Plan indicates that \$100,000 be levied for the Heritage Hills project and the City of Bloomington is not planning on doing that project in 2015. She reported that Bloomington is planning to do a project on Overlook Lake Outfall and would like to ask the LMRWD to participate in that project with \$100,000.

Administrator Loomis said the Plan identifies \$10,000 be levied over a period of five years for Credit River. She reported she has spoken to Paul Nelson about this. Mr. Nelson reported the work being done on the Credit River is upstream of the reach located in the LMRWD and he doesn't think they will be doing projects on the reach that is within the LMRWD boundaries.

Dean Lake had \$100,000 in the CIP for 2014 and 2015. She questioned if that \$100,000 should be in the levy. The Managers asked what Paul Nelson had to say about Dean Lake. Administrator Loomis reported Mr. Nelson would prefer to wait until the study of Dean Lake is complete. The Managers decided not to levy the \$100,000 for Dean Lake.

Administrator Loomis said there is \$90,000, \$60,000 and another for \$90,000 for the City of Chaska. She noted in talking to Bill Monk, he said they aren't going to do those projects and asked if the watershed wants to do the projects on their own. The Managers said if the City is not interested the LMRWD should forget those projects. The LMRWD should determine whether or not these projects are worthy of completion and if so the LMRWD should consider implementing these projects on its own.

**ii. Cooperative Project Discussion**

Administrator Loomis asked about a fund to address gully erosion that the Plan shows \$125,000 being levied over a five year period. Manager Kremer recommended placing \$40,000 in the budget next year for erosion.

Manager Kremer recommended the Administrator consult with the cities on a regular basis (once a year) to talk about the CIP..Administrator Loomis said she has spoken to most of the cities to ask about projects.

Administrator Loomis pointed out an added line under the 509 Plan to audit cities for Plan compliance and asked if the managers wanted money for that. She asked if money should be in the budget for LMP review. She has been trying to get information about which cities may have plans ready for review next year. Manager Kremer said that BWSR has that information.

Administrator Loomis said Scott County had an educational plan that the LMRWD considered participation in and she has been talking to Carver County WMO on an education plan and the county has indicated if they had money, they would do articles for the district. She noted there is \$25,000 budgeted for public education. Managers discussed prior arrangements that were made with Prior Lake/Spring Lake Watershed District.

**iii. 9' Channel Fund discussion**

Administrator Loomis said the dredge balance is negative \$281,000 for the 9' channel. President Francis clarified a preliminary budget is needed by next month.

Manager Shirk asked about looking at a policy over time to make up for the shortfall in the dredge fund. President Francis said the auditors made a comment that sooner or later, the 9' channel will have to be dealt with but didn't make it sound like a big deal. He questioned that advice.

Manager Kremer suggested getting John Kolb involved to figure out if they should assess benefitting properties or levy against the district, in order to make up for the deficit in the 9' Channel Fund. Manager Kremer suggested this issue will not be resolved this budget cycle, however he further suggested the Managers should determine a mechanism to fund the 9' Channel expenses before a second dredge placement site is developed.

President Francis requested the preliminary budget for the next meeting.

**7. COMMUNICATIONS**

**A.Administrator Report**

**i. Update on Chanhassen Bluff failure**

Administrator Loomis said there is no report on the Chanhassen Bluff failure.

Administrator Loomis stated in looking through the watershed plan, she found a guidance to implementation and a 2004 implementation plan. She asked what the relationship is between all the planning documents. Manager Kremer said the guidance to implementation was supposed to be part of a plan. Manager Shirk questioned if the implementation should be part of the plan amendment.

LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
Wednesday, July 16, 2014  
MEETING MINUTES

Administrator Loomis advised the Managers of a request to increase the grant to the SW Metro Educational Cooperative on the cost of plant material with the first plan and said the cost share agreement is well under the 50% share which they match.

Administrator reported the LCCMR has agreed to fund the riverbed monitoring being conducted by the USGS.

Administrator Loomis reported that the Children's water festival is on September 24 at the State Fairgrounds and they are looking for volunteers.

Administrator Loomis noted that the Historical Society removed 21 boxes of documents from the LMRWD office.

President Francis commented on the empty file cabinets and said there might be a non-profit that wants the file cabinets. Administrator Loomis said there are also years and year's worth of office supplies. President Francis suggested leaving the items not wanted in a pile and donating them to schools. Administrator Loomis said before they destroy tapes of records they need to submit a request to the state.

**B. President** - No Report

**C. Commissioners** - No Report

**D. Committees** - No Report

**E. Legal Counsel** - No Report

**F. Engineer** - No Report

**8. ADJOURN**

**It was moved and seconded to adjourn at 9:41pm. Motion carried unanimously.**

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Kent Francis, President

Attest:

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Linda Loomis, Administrator